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Glen's
Local Government Act
1929

MIDDLE TEMPLE

To my Inn
Randolph A. G
June 17th, 1929,

Glen's

Local Government Act 1929

INCLUDING

The Agricultural Rates Act, 1929

BY
RANDOLPH A. GLEN
M.A., LL.B., CANTAB.
Barrister-at-Law, of the Middle Temple and the
Western Circuit

Editor of "GLEN'S PUBLIC HEALTH," Fourteenth Edition, 1925
Author of "TOWN PLANNING" (1927); "HOUSING" (1929)
"LOCAL GOVERNMENT CASE LAW," &c., &c.

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PREFACE.

THE Local Government Act, 1929, makes so many changes in so many branches of local government that a work containing all the statutes and citing all the cases on all the subjects dealt with would be of enormous bulk. As there are numerous works dealing separately and exhaustively with most of such subjects, I have generally been content to give references to such works in the footnotes, with the cases decided since their publication, though the length of the "Appendix" of miscellaneous Acts shows that several have had to be included because of the large amount of "legislation by reference."

The Agricultural Rates Act, 1929, which received the Royal Assent on May 10, 1929, and alters the date of exemption of agricultural land from rates from October 1, 1929, to April 1, 1929, and provides for grants to rating authorities out of the Rating Relief Suspense Account, will be found set out at the end of the Appendix.

The "Introduction" is intended to be a summary of the Act's provisions rather than an explanation of them, though in some cases an explanation has been attempted. Even the official explanatory memoranda are too bulky to reproduce here, though the following list may be found useful. Cmd. 3134 (June, 1928) contains 57 pages of explanation of the proposals, and tables of figures giving estimated results (set out in 26 L.G.R. (Orders) 413–469). Cmd. 3215 (November, 1928) contains 11 pages, and sets out the "scheme" of the Minister of Transport whereby the date for the allowance of railway rebates was advanced to December 1, 1928. Cmd. 3220 (also November, 1928) contains 32 pages of explanation only. Cmd. 3227 (also November, 1928) is a supplement to Cmd. 3134 and contains 64 pages of "statements with particulars for 25 counties as to the financial effects of the proposals in county boroughs and in certain counties in England and Wales." The Memorandum to the Bill itself as first issued contains 28 pages dealing with the financial proposals only and giving mathematical calculations. In January, 1929, a white paper (Cmd. 3257) was issued on the Government amendments made during the passage of the Bill through the House of Commons (7 pages). In February, 1929, a white paper (Cmd. 3273) contained an "Explanatory Memorandum on the Provisions of the Bill as passed by the House of Commons" (56 pages). These 255 pages would form a book by themselves, and I have been unable to do more than extract a few of the observations made in them. The Minister of Health has issued recently 15 circulars

A 2

on the Act. That of March 12, 1929 (on Exchequer grants) will be found in 27 L.G.R. (Orders), 71, 72. The Guardians (Postponement of Election) Order, 1929, and the Home Office Circular thereon, will be found in 27 L.G.R. (Orders) 61, 62.

The following Memoranda, etc., were issued in April, 1929, and will be found in the May number of 27 L.G.R. (Orders) at the pages indicated in brackets: A circular on the Act itself (pp. 87-98); two on the "transfer of functions of Guardians" (pp. 99-106 and 115-121); a "Model administrative scheme for the use of County Councils" (pp. 107-114); a similar model for County Borough Councils (pp. 122-126); two Memoranda on "Maternity and Child Welfare and Voluntary Associations" (pp. 127, 128); two Memoranda on "Rating and Valuation" (pp. 129-136 and 137-143); a Memorandum on the "Constitution of Assessment Committees" (p. 144); and a Memorandum dealing with the London provisions of the Act (pp. 145, 146).

Two new departures from the ordinary practice have been made. One is printing the Notes in italics. This is in order to distinguish them from the text of the Acts without using type of a smaller and less easily read size. The other is printing the marginal notes to the sections in italics and square brackets after the numbers of the sections. This is in order to avoid the waste of space occasioned by these notes when at the side of the text, and at the same time to make such notes conspicuous.

There are Tables of Cases and Statutes cited, and a very full Index. The most recent reported case is one on page 325 of to-day's "Solicitors' Journal," though more recent cases which have not yet been reported have been cited.

The task has been a difficult one, and I hope that the work will be found useful by those who have occasion to turn to its pages.

RANDOLPH A. GLEN.

New Court, Temple, E.C.4.

May 25, 1929.

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INTRODUCTION.

INTRODUCTION

Mr. Chamberlain, when introducing the Local Government Bill in the House of Commons on November 28 last, rightly described it as "among the greatest measures which have been presented to any Parliament for many years."

Its object is to remove from local government these five main defects: the existence of poor law guardians with areas and functions overlapping those of other bodies, and the consequent confusion waste and inefficiency; the onerous charges placed upon the smaller highway authorities in connection with the construction improvement and maintenance of modern roads, which are used more and more by traffic that does not benefit the people who have to find the money; the want of power readily and cheaply to alter the boundaries of districts as conditions change; the inequitable system of rates which, under modern conditions, has jeopardized certain industries; and the chaotic relationship between national and local expenditure, whereby national contributions to local needs are given in largest measure where there is the least necessity and in smallest measure where the necessities are greatest.

I propose to deal with the Act in this Introduction under the eleven headings mentioned in the "Table of Contents," *ante*.

POOR LAW.

The most important of the proposed administrative changes is the abolition of the existing "poor law authorities." These are defined (s. 134) as boards of guardians, boards of management of school districts, asylum boards, and joint committees of guardians. As from the appointed day, all these bodies cease to exist, and their functions, both as poor law authorities (s. 1) and as births deaths and marriages registration authorities (s. 21 (1)), are transferred to the county councils and county borough councils (hereinafter called "county authorities").

If a union is in the area of more than one county authority, the functions will be divided among the county authorities (s. 1), or, in the case of registration districts, will be conferred on the county area with the largest population (s. 21 (1) (*b*)).

The appointed day is April 1, 1930 (s. 134), unless a board of guardians has been superseded by a board appointed under the

Boards of Guardians (Default) Act, 1926, when it will be April 1, 1935 (s. 20 (2)).

Provision is made for the voluntary and also for the compulsory combination of county authorities for poor law purposes, the governing body in this case being a joint committee (s. 3).

Arrangements for discharging the transferred functions are to be made by means of "administrative schemes," which the county authorities are to prepare and submit to the Minister of Health within six months after the commencement of the Act (s. 4). There is no definition of the "commencement" of the Act, so these six months will run from the date of Royal Assent, March 27, 1929. As to schemes under the Act generally, see s. 131. Notice of the submission of the scheme is to be inserted in one or more local papers, and representations thereon may be made within four weeks after the publication of the notice (s. 8 (1)). The schemes are of no effect until approved by the Minister who, if and so far as the scheme relates to education, consults the Board of Education (s. 8 (2)). If there is default in making a scheme, the Minister may make one himself (s. 8 (3)). Schemes may be varied or revoked in the same way as they are made (s. 131 (2)).

County authorities may, in these schemes, provide (s. 5) for dealing with the destitute in the same way as they have hitherto dealt with persons not destitute, in relation to such matters as hospitals, tuberculosis, maternity and child welfare, mental deficiency, blindness, and medical inspection and treatment of school children. Lunacy is not included, because it is intended to deal with this matter separately in accordance with the recent report thereon of the Royal Commission (cmd. 2,700).

The scheme must (s. 6 (1)) provide for the formation of a "Public Assistance Committee" of the county authority; one-third of this committee may be co-opted, and some of the co-opted members must be women. It will deal, with or without executive powers (other than rating and borrowing) as the county authority think fit, with all the transferred poor law functions, except that some of these functions may be delegated to other committees of the county authority (s. 6 (2) (3)).

In order that local considerations may have due weight given to them in counties outside county boroughs (as to which see below), district areas are to be formed each with a local sub-committee of the public assistance committee. These sub-committees are called "Guardians Committees," and consist of non-county borough or district councillors nominated by their councils.

the local representatives on the county council, and members co-opted by the county council to include women and not to exceed one-third of the whole committee (s. 7 (1) (*a*) (*b*)). In appointing co-opted members, regard is to be had to previous poor law experience (s. 7 (3), (6) (*b*)). Guardians committees are to have the free use of offices belonging to the local authority of their area (s. 7 (5)). They will consider applications for relief, determine its nature and amount, and how much is to be recovered as mentioned below, and, if requested to do so by the public assistance committee, visit inspect and manage the poor law institutions in the area, but they will not appoint or dismiss officers (s. 7 (1) (*c*)).

With regard to the recovery of expenses, the policy of the Act is that persons who can afford to pay shall be made to pay for treatment, except for an "infectious" disease, in any hospital, maternity home or other residential institution provided by any local authority, and all such authorities are required to recover from a person so treated, or anyone legally liable to maintain that person, the whole of such expense, unless they are satisfied that, having regard to his financial circumstances, he cannot reasonably be required to pay the whole (s. 16 (1)), or unless they get the money from some association or fund (s. 16 (1) proviso). It is expressly provided that these expenses are to be sums representing the average daily cost per patient of the maintenance of the institution and the staff and the maintenance and treatment of patients (s. 16 (3)).

In order that there may be effective consultation between public assistance committees and guardians committees the chairman of a guardians committee is given the right to attend, and speak but not vote at, meetings of the public assistance committee at which business specially relating to the area of the guardians committee is to be transacted (s. 7 (4)).

In county boroughs there will be no guardians committees, but only sub-committees of the councils, a majority of the members of which are to be members of the councils (s. 7 (6)).

Receipt of poor relief, other than by way of medical or surgical treatment or relief as a blind person or a pauper lunatic, will disqualify for membership of county authorities, public assistance committees, guardians committees, and the poor law sub-committees in county boroughs (s. 10). As to disqualification for receiving certain pensions, see section 11.

The few remaining "distress committees" appointed under the Unemployed Workmen Act, 1905, are also abolished (s. 12).

There are miscellaneous provisions as to acquisition and disposal of land for the purposes of the transferred functions (s. 9), hospitals for the sick and for pregnant women (ss. 13, 14 (1) (2)), public health and housing committees of county authorities (s. 14 (3)), mental deficiency (s. 14 (4) (5)), assessment committees (s. 15), accounts and audit (s. 17), London (s. 18), local Acts (s. 19), and superseded defaulting guardians (s. 20).

The Minister is given power, up to December 31, 1930, to remove certain difficulties (s. 130, see *post*, p. 23), and special provisions are made with regard to the transfer of property liabilities and officers. These and other matters which affect poor law and other services are dealt with below, after the heading "Exchequer Grants."

REGISTRATION ACTS.

Part II. of the Act transfers the functions of the boards of guardians under these Acts to county authorities as already stated (s. 21), and provides for the making of schemes for their administration in counties and county boroughs under the supervision of the clerks to the county and county borough councils (s. 24).

Registration officers are in future to be "salaried officers" (s. 22), and there is power to increase their statutory fees (s. 23).

The law as to giving information of births and deaths is amended (s. 26), and special provisions are made with regard to London (s. 27).

The property and liabilities held or incurred by boards of guardians under the Registration Acts are transferred to the councils to whom the functions of such boards under these Acts are transferred (s. 116), and registration officers in office on April 1, 1930, are to hold office by the same tenure and on the same conditions as immediately before that date, and are to be deemed, for superannuation purposes, to be officers of the council to whom the functions are transferred (s. 122).

As to compensation to registration officers for loss of office, see section 123 (1).

ROADS.

The Act (s. 134) defines "roads" as meaning highways repairable by the inhabitants at large, and as including bridges so repairable carrying roads, and does not define "highways." By section 5 of the Highway Act, 1835, "highways shall be understood to mean all roads, bridges (not being county bridges), carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements." So that, if any of these various kinds of ways, including, it will be noticed, even a footway, is repairable by the inhabitants at large, it will be a "road." If it is not so repairable it will not be a "road," and therefore not a "county road" or an "unclassified" road. The Act (s. 29 (1)) makes "county roads" of three kinds of roads, namely (*a*) roads which, on April 1, 1930, are "main roads," (*b*) roads which become main roads, and (*c*) every road as respects which a county council becomes "the highway authority" under the Act. The Act amends the law as to declaring roads to be "county roads" (s. 37).

In rural districts (s. 30), apart from the "delegation" and "protection" provisions mentioned below, the highway powers and duties of rural district councils cease, and county councils become the highway authority as respects "the highways" therein. Dedicated footpaths and bridleways are clearly "highways," so that in rural districts these ways, if repairable by the inhabitants at large, become "county roads" and, as "all enactments relating to main roads" (including the duty to repair imposed by section 11 (1) of the Local Government Act, 1888) are to have "effect as if for references therein to main roads there were substituted references to county roads," all the above kinds of "highways" in rural districts, if repairable by the inhabitants at large, become repairable by the county councils.

The right of parish councils to repair public footpaths not at the side of public roads, that was conferred by section 13 (2) of the Local Government Act, 1894, is not taken away, but the effect of the rating proposals will not leave much, if anything, for these bodies to spend on footpaths, and, if these refuges from the motor-ridden roads are to be preserved, the parish councils must see that they are not neglected by the county councils after the appointed day. The duty of district councils to "protect" all "public rights of way" and "roadside wastes" is expressly saved (s. 30 (1) proviso), so that these bodies too should see that the county council fulfil their new duties with regard to the public footpaths, bridleways, and minor roads which they may be inclined to neglect in favour of the larger motor tracks.

In urban districts (s. 31 (1) (2)), county councils only become the highway authority as respects "classified" roads "vested in," that is to say, repairable by (see Public Health Act, 1875, s. 149) the district council, unless there is an agreement as to "unclassified" roads (s. 34). Urban district councils with populations of 20,000 may claim to "retain" county roads (s. 32 (1)-(3)), and may subsequently "relinquish" their functions with regard to such roads (s. 32 (4)). If their populations are not so large they have no retention rights, and any roads previously retained are taken away from them (s. 32 (5) (*b*)). County councils are required, subject to certain qualifications, to make annual contributions towards the cost of repairing and improving retained county roads (s. 33).

But both urban and rural district councils can, within three months after the commencement of the Act (s. 35 (1)) and periodically afterwards (s. 35 (5)), ask the county council to delegate to them the council's functions with regard to all or any of the roads or county bridges in their districts. With regard to "classified" roads (s. 35 (3)), the county council need not comply unless they like, but, in the case of "unclassified" roads (s. 35 (2)), the county council must comply unless "satisfied that, having regard to the best means of promoting economy and efficiency in highway administration throughout the county and to the particular circumstances of the district," they ought not to do so, and, if they are so satisfied, the district council may appeal to the Minister of Transport (s. 35 (4)). Subject to certain requirements as to dates of notices, delegated functions may be relinquished (s. 35 (6) (8)) and withdrawn subject to a right of appeal to the Minister of Transport (s. 35 (7) (8)). They are performed by the district councils as "agents" of the county councils and subject to detailed provisions as to control by the county councils (s. 36).

There is a saving as to highways repairable by persons other than highway authorities (s. 38).

TOWN PLANNING.

The inability of county councils (other than the London County Council, see T.P. Act, 1925, s. 20) to take formal part in town planning has already been found to be unsatisfactory, and the road provisions of the Act would have made their position still more unsatisfactory. This defect is now removed by (1) giving county councils and urban and rural authorities power to make joint schemes to be run by joint committees (s. 40 (1)); (2) giving county councils representation on existing joint committees (s. 40 (2)); (3) giving the Minister of Health power to order the formation of joint committees, including representatives of county councils (s. 41); (4) giving urban and rural authorities power to make county councils the authority responsible for enforcing the observance of particular town planning provisions, or for the execution of works (s. 42 (1)); (5) making county councils the responsible authority instead of the rural district council with regard to roads, streets, and building lines (s. 42 (2)); and (6) giving urban and rural authorities power to relinquish in favour of county councils any particular town planning functions on terms to be agreed (s. 43).

The Act (s. 44) extends the time within which (under T.P. Act, 1925, s. 3) councils of boroughs and urban districts with populations of over 20,000 are required to prepare schemes from January 1, 1929, to January 1, 1934, "or such later date before December 31, 1938, as the Minister may in any case allow."

BOUNDARIES, ETC.

On April 1, 1927, there were 65 boroughs, 264 urban districts, and 101 rural districts where a penny rate produced less than £100, and none of these areas had a population exceeding 5,000. The need for reorganizing such areas, which was recognized by the Royal Commission, will be still more pressing in consequence of the poor law, highway, and rating provisions of the Act, and it is accordingly provided (s. 46 (1) (2)) that all county councils (other than the London County Council, see s. 66 (3)) shall confer with representatives of the county districts and with the councils of the adjoining county boroughs and send to the Minister of Health, before April 1, 1932, a report of their review of the circumstances of each such district, together with their proposals as to alteration of boundaries, etc.

The proposals are to be deposited for public inspection, notice of the deposit is to be published in the local papers, representations on them by local authorities (including parish councils and parish meetings), and local government electors are to be made within six weeks after the notice, and, if an affected local authority objects, a local inquiry is to be held by the Minister (s. 46 (3) (4)).

Default in making such a proposal may lead to the Minister himself making one (s. 46 (5)), or a review (s. 46 (6)), followed by an order effecting the changes which he considers desirable, such order to be laid before Parliament (s. 46 (7)).

Provision is made for subsequent decennial reviews (s. 47), and special provision is made for altering the boundaries of counties and county boroughs, but only in cases where districts or parishes are not wholly comprised within one county, and only when there are joint representations to the Minister by the county authorities on the subject (s. 49). The existing provisions relating to the alteration of boundaries are saved, with amendments, and the provisions so saved apply to London (s. 48).

Councils of counties outside London are also required, after completing the first review under the foregoing provisions, to review the "electoral divisions" and report to the Secretary of State before January 1, 1933, thereon, though the Secretary of State may, if satisfied on representations by local authorities that such a review is unnecessary, direct that no such review need be made (s. 50).

There are miscellaneous provisions relating to reports and returns by all local authorities in London and outside to the Minister of Health with regard to their functions (s. 51), to travelling expenses of county councillors and members of committees and sub-committees (s. 52), and to borrowing and appropriation of land by county councils (s. 53); and rural district councils are given power, by an extension to them of the Borough Funds Acts, to promote and oppose Bills in Parliament and to prosecute and defend legal proceedings (s. 55).

PUBLIC HEALTH SERVICES.

Rural district councils are given power to contribute, as part of their expenditure for "general" purposes, sums towards "special expenses," and to apportion special expenses between contributory places (s. 56). County councils may contribute towards sewerage and water supply expenses in urban and rural districts (s. 57 (1)).

Urban and rural authorities may relinquish to county councils any of their public health functions on terms to be agreed (s. 57 (2)). A transfer of the public health functions of defaulting authorities to county councils may be effected by the Minister of Health after local inquiries (s. 57 (3)), and sections 299 to 302 of the Public Health Act, 1875, as to complaints to the Minister, are to cease to have effect.

There are provisions relating to whole-time medical officers of health (s. 58); to the qualifications of medical officers and health visitors appointed in London and elsewhere under the Acts relating to maternity and child welfare, tuberculosis, and venereal disease (s. 59); to the transfer of maternity and child welfare services to local education authorities (s. 60); to notification of births (s. 61); to midwives (s. 62); to isolation hospitals for infectious diseases other than tuberculosis and venereal disease (s. 63); and to the transfer from the London County Council to the

Common Council of the City, or to all the Metropolitan borough councils, of any of their functions other than those relating to the poor law, and to the delegation of such functions to any of such councils (s. 64).

With regard to contributions towards the cost of public health services, see below under the heading "Exchequer Grants."

RATING AND VALUATION.

On April 1, 1929, agricultural land and agricultural buildings ceased to be rateable at all (s. 67, as amended by the Agricultural Rates Act, 1929, s. 5). The expression "agricultural land" means (see Note to s. 67): "any land used as arable meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one-quarter of an acre used for the purpose of poultry farming, cottage gardens (*i.e.*, gardens attached to houses occupied as dwellings by persons of the labouring classes) exceeding one-quarter of an acre, market gardens, nursery grounds, orchards or allotments, including allotment gardens (*i.e.*, allotments not exceeding 40 poles in extent and wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family), but does not include land occupied together with a house as a park, gardens (other than aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse"; and the expression "agricultural buildings" means "buildings (other than dwelling houses) occupied together with agricultural land, or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon."

The gross value of an "agricultural dwelling" is to be the rent at which it might "reasonably be expected to let from year to year if it could not be occupied and used otherwise than as" such dwelling; and a house is such a dwelling if its occupier is either (*a*) "primarily engaged in carrying on or directing agricultural operations on" the land in connection with which it is occupied, or (*b*) "employed in agricultural operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed" (s. 72).

Premises used wholly for industrial purposes, or wholly for freight transport purposes, are to be rated at one quarter of their net annual value (s. 68 (1) (*a*)), and premises used partly for those purposes are to be rated at one quarter of the net value of the part so used plus the full value of the part not so used (s. 68 (1) (*b*)). The net annual value of premises outside London used wholly or partly for industrial or freight transport purposes is to be the amount produced by making the like deductions as would have been made under section 22 (1) (*c*) of the Rating Act of 1925, or a scheme under section 64 of that Act, if the rateable value of the premises had continued to be ascertained under those provisions (s. 68 (1) (*b*) proviso). The deductions which would have been so made under section 22 (1) (*c*) of the Act of 1925 (which applies Sched. II, Part II, of that Act) is 75 per cent. of the net annual value in the case of buildings other than dwelling-houses occupied with agricultural land or market gardens, and other percentages in the case of tithes, railways, lands, woodlands, etc. Schemes under section 64 of the Act of 1925 relate to such matters as "differential rating" and special privileges of various kinds.

By section 3 of the Act of 1928, an "industrial hereditament" is, shortly, one which is not a "freight transport hereditament," and is occupied and used as a mine or mineral railway, or as a factory or workshop which is not primarily occupied and used either as a dwelling-house, retail shop, distributive wholesale business, store, public supply undertaking, or as any of those things combined. "Mines," "mineral railways," "public supply undertakings," and "retail shops" are separately defined.

By section 5 (1) of the Act of 1928, a "freight transport hereditament" is, shortly, one which is occupied and used wholly or partly for railway transport purposes as part of a railway, canal, or dock undertaking (each separately defined) and by section 5 (2) "transport purposes" are defined as meaning "all or any of the following purposes: (*a*) 'rail tranport purposes,' that is to say, all purposes connected with the conveyance or transport by railway of passengers and their luggage, or of carriages, parcels or merchandise, including the construction, maintenance, and repair of all ways, works, machinery and plant used in connection with the undertaking; (*b*) 'canal transport purposes,' that is to say, all purposes connected with the conveyance or transport by canal, or by a railway forming part of a canal undertaking, of passengers and their luggage, or of carriages, parcels or merchandise, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking; (*c*) 'dock purposes,' that is to say, all purposes connected with the shipping or unshipping at a dock of passengers and their luggage, or of carriages, parcels or merchandise, or the conveyance or transport thereof by a railway forming part of a dock undertaking, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking, or connected with the provision of accommodation for vessels and their stores, equipment and tackle (including fishing tackle), whether for purposes of repair or otherwise."

Where a rate is made for a period which does not end on October 1, 1929, the ratepayer is to get the benefit of the Act in respect of the part of the period which follows that date, and can recover any over-payment made by him (s. 68 (2) (3)). Where, during any rating period after October 1, 1929, any hereditament in London either becomes or ceases to be an agricultural, industrial, or freight transport hereditament, a "provisional" list is to be made, and there are consequential provisions as to objections, appeals, etc. (s. 70).

It is not necessary for rating authorities, in defining the class of hereditaments of which owners are to be rated instead of occupiers, to define the class by reference to the interval at which rent from time to time becomes payable or is collected (s. 71).

Where rates in respect of an industrial hereditament occupied by a tenant are payable by the landlord, the landlord must pay to the tenant, or allow him to deduct from his rent, "a sum equal to the difference between every amount payable by the landlord by way of those rates, after deducting any allowance, commission, abatement, or deduction granted to him by the rating authority, and the amount which would have been so payable at the rate in the pound current for the time being if the rateable value of the hereditament had been equivalent to the net annual value thereof" (s. 73 (1)). Parts of premises assessed as industrial hereditaments, and let, are to be treated as separate hereditaments (s. 71 (2)).

The rate relief given to occupiers of freight transport hereditaments is intended to be passed on to certain of their customers, and accordingly elaborate provisions are made to secure adequate rebates to such customers (s. 136 and Sch. XI). Thus, the Minister of Transport may, when revising under existing enactments rates of charges in connection with canals and docks, base his revision on the rate relief obtained by these undertakings (s. 136 (1) (b)). By the Railway Freight Rebates (Anticipation) Scheme of November 14, 1928 (cmd. 3215), the date for the allowance of railway rebates was advanced to December 1, 1928, and a supplementary estimate for this purpose (£3,333,333) was passed on November 22, 1928.

Definitions of "canal undertakings," "canal," "dock," "dock authority" and "dock undertaking" are taken from section 5 (3) of the Rating and Valuation (Apportionment) Act, 1928, and will be found in the Note to section 68 of the Act of 1929.

Rebates are also to be granted by two kinds of railway companies, namely "(*a*) every railway company for which a schedule of standard charges has been settled under the Railways Act, 1921, or to which such a Schedule is for the time being applied under section 33 of that Act, being a company whereof the railway is used for the conveyance of merchandise otherwise than by passenger train or carriage; and (*b*) every light railway company, being a company whereof the light railway is used as a public railway for the conveyance of merchandise otherwise than by passenger train or carriage" (Sch. XI, Part I (1)).

Into a "Railway Freight Rebates Fund" administered by the Railway Clearing House must be paid by each company affected a sum equivalent to the rate of relief obtained (Sch. XI, Part I (2)), and before June 1, 1929, the companies are to prepare and submit jointly to the Railway Rates Tribunal a scheme providing for the rebates from the carriage charges made by them in respect of selected traffics (Sch. XI, Part I (3) (16)). The "selected traffics" include such agricultural traffic as manure, food for live stock and poultry, grain, potatoes, milk, and live stock (Sch. XI, Part II); coal coke and patent fuel for export or for ocean-going ships or fishing vessels or for blast furnaces, etc. (Sch. XI, Part III); and timber, iron or steel for mines, or ores for blast furnaces, etc. (Sch. XI, Part IV).

Enactments imposing limitations on the borrowing powers of local authorities by reference to the value for rating purposes of hereditaments within their areas are to cease to have effect (s. 74); and poundage rate limits on the expenditure of local authorities are to be increased by 33⅓ per cent. or such higher percentage as the Minister of Health may in any special case allow (s. 75 (1)).

Water rates are to be based on net annual values, disputes being settled by two justices under section 68 of the Waterworks Clauses Act, 1847 (s. 77); and drainage rates are to be based on gross annual values for income tax purposes, disputes being settled by a court of summary jurisdiction (s. 78). "Water rates" and "drainage rates" are separately defined (s. 134).

Jury qualifications are to be determined by net annual values appearing in valuation lists, or net annual values for income tax purposes, disputes being settled by a court of summary jurisdiction

(s. 79). The yearly value of land or premises for the purposes of the Representation of the People Act, 1918, is to be the gross value for rating purposes, apportionments to be made by the registration officer (s. 80).

Necessary information as to annual values for income tax purposes is to be given by surveyors of taxes on payment for copies of documents (s. 81).

Payments in respect of Welsh education are specially provided for in section 82, and section 83 deals with the adaptation of enactments and documents the provisions of which refer to annual values.

EXCHEQUER GRANTS.

The effect of the de-rating provisions dealt with above under "Rating and Valuation" will, in the "standard year" (ending on March 31, 1929, see definition in s. 134), be to produce a loss in rates of a sum estimated at £24,000,000. That loss will have to be made up by the Exchequer, and the plan is to distribute it in accordance with the needs and not with the expenditure of the local authorities. With this end in view, the distribution will not be by a grant on a percentage basis, but by a block grant recalculated periodically.

As to the "DISCONTINUED GRANTS," the following will (s. 85 (1), Sched. II) cease to be payable in respect of any period after March 31, 1930 : (1) Those payable into the Local Taxation Account out of the Consolidated Fund or its growing produce; (2) those in aid of (*a*) maternity and child welfare (other than the training of midwives and health visitors), (*b*) treatment of tuberculosis and venereal disease, (*c*) the blind, and (*d*) mental defectives; and (3) road grants.

The Local Taxation Account and the Exchequer Contribution Account of every county and county borough are to be wound up in accordance with directions from the Treasury and the Minister of Health respectively (s. 85 (3)). Special provisions (s. 85 (4), Sched. III) are made with regard to the payments which, immediately before April 1, 1930, were "payable out of Local Taxation Accounts, or out of moneys which would have been payable to such accounts, or were payments required to be charged to Exchequer Contribution Accounts," namely, payments (1) to cattle pleuro-pneumonia account, (2) in respect of rates on certain Welsh tithe rent-charges and payments in lieu of tithe, (3) towards salaries of medical officers of health and sanitary inspectors, and (4) to public vaccinators.

Financial adjustments between spending authorities in relation to discontinued grants are to cease to have effect as from April 1, 1930, without prejudice to fresh adjustments if found necessary notwithstanding the new Exchequer grants (s. 85 (5)).

As to the "GENERAL EXCHEQUER CONTRIBUTION," one of the new annual grants is so called (s. 86 (1)), and its amount is to be fixed first for a period of three years from April 1, 1930, then for one of four, and thereafter quinquennially, each such period being called a "fixed grant period" (s. 86 (2)).

For each year of the first triennium it is to be the aggregate of the total losses of all counties and county boroughs on account of rates and grants plus £5,000,000; for each year after the first period, the sum to be added to the losses is to be determined by Parliament, but "the proportion which the General Exchequer Contribution for any fixed grant period bears to the total amount of rate and grant borne expenditure in the penultimate year of the preceding fixed grant period shall never be less than the proportion which the General Exchequer Contribution for the first fixed grant period bore to the total amount of rate and grant borne expenditure in the first year of that" period (s. 86 (3) (*c*)), with a proviso as to abnormal penultimate years (s. 86 (3) (*ii*)). In this connection, "rate and grant borne expenditure" means "the local expenditure which fell to be borne by rates and grants made under this Part of this Act out of the General Exchequer Contribution" (s. 86 (3) (*i*)).

During the first four fixed grant periods, each county or county borough is to receive annually (*a*) a sum equal to the appropriate percentage of its losses on account of rates and grants, and (*b*) a sum based on its "weighted population" (s. 88 (1)), and, after the fourth fixed grant period, the whole of the General Exchequer Contribution is to be based on such population (s. 88 (1) (b)).

For determining "LOSSES ON ACCOUNT OF RATES," there are complicated rules (enacted by ss. 92 (1), and 134 "losses on account of rates"). Thus, the loss on account of "rates" of a "rating area" is a sum bearing the same proportion to expenditure which would have fallen to be borne by rates (on certain assumptions—see Sched. IV, Part I (1)) as the loss of rateable value of the area bears to the "unreduced rateable value" thereof (*ibid.* (3)); and losses in respect of "separately rated areas," "special rates," "parish rates," and London are specially dealt with (*ibid.* (5)–(7)). The loss on account of rates of a "county" is the aggregate of the losses on account of rates of the several separate rating areas within the county, and, where a rating area is partly in one and partly in another county, the part in each county is to be treated as if it were in a separate rating area (*ibid.* (4)). There are definitions of all the above expressions in inverted commas (see s. 134 and Sched. IV, Part I (5) (6)). With regard to the above expression "unreduced rateable value," the case where contributions in aid of rates are made in respect of Government property is specially provided for (s. 107), and there are special temporary provisions dealing with the adjustment of such values (s. 133).

For determining "LOSSES ON ACCOUNT OF GRANTS," there are separate rules (enacted by s. 134, "losses on account of grants"). Thus, the loss on account of grants of a "spending authority" is to be the amounts (estimated and certified in accordance with certain rules—see Sched. IV, Part I (1)–(3)) as respects that authority, and the loss on account of grants of a county or county borough is to be the aggregate of the losses on account of grants of the spending authorities within the county or county borough (*ibid.* (4)). The expression "spending authority" is specially defined (*ibid.* (5) (*a*)), and special provisions are made with regard to London (*ibid.* (6)).

The following is an attempt to summarise the extremely complicated rules for determining the "WEIGHTED POPULATION": In the "appropriate year," that is to say, for the first fixed grant period the "standard year" (*i.e.*, April 1, 1928, to March 31, 1929), and thereafter the last year of the preceding fixed grant period (s. 134), there are to be added to the estimated population of the county or county borough the following two figures: (1) The percentage represented by the population which (*a*) any excess (over 50 per 1,000 of children under 5) bears to 50, and (*b*) any deficiency (less than £10 rateable value per head) bears to £10; (2) The percentage equal to the amount of any excess (over 1½ times the percentage represented by the proportion which the average number—during the three years immediately preceding the beginning of each fixed grant period—of unemployed insured men increased by 10 per cent. of the number of unemployed insured women resident in the county or county borough bears to its average total population for those three years) multiplied, for the first and second fixed grant periods, by 10 and, for subsequent periods, by such number as bears to 10 the same proportion as ratio (*i*) below bears to ratio (*ii*). Ratio (*i*) is that which the total amount of the General Exchequer Contribution in the period in question bears to the part thereof distributed in that period according to weighted population. Ratio (*ii*) is that which the total amount of the contribution in the first period bears to the part thereof distributed in that period according to weighted population (s. 134, Sched. IV, Part III (1) (2) (4) (5)). Outside London, the following third figure is to be added, namely, the percentage represented, in the case of a county in which the estimated population per mile of roads is in the appropriate year (*a*) *less than* 100, by the proportion which the difference between 200 and the estimated population per mile of roads bears to 200; and (*b*) 100 *or more*, by the proportion which 50 bears to the estimated population per mile of roads (s. 134, Sched. IV, Part III (3)).

Before the expiration of seven years from April 1, 1930, the Minister of Health is required to investigate, in consultation with local authorities and their associations, the working (*a*) of the rules for determining "weighted population," and (*b*) of those for calculating sums to be allocated to districts on the basis of population (s. 110).

As to the "ROAD FUND," as from April 1, 1930, there are to be two annual contributions towards the General Exchequer Contribution out of the Road Fund, subject to Treasury regulations as to their application in aid of the moneys to be provided by Parliament, namely: (*a*) a sum equivalent to the discontinued road grants for the standard year (April 1, 1928, to March 31, 1929), and (*b*) in respect of each year of the first fixed grant period, eighty ninety-first parts of £3,000,000, and in respect of each year of each subsequent fixed grant period a sum to be determined by Parliament with respect to that period (s. 87 (1)). The provision in section 2 of the Roads Act, 1920, for payment every year to the Local Taxation Account, out of the Consolidated Fund, of £536,954 8s., ceases to have effect, and that same sum was, in addition to the sum provided for in s. 87 (1), to be paid to the Road Fund out of the Consolidated Fund each year beginning on April 1, 1928, and April 1, 1929 (s. 87 (2)).

As to the "GENERAL EXCHEQUER GRANTS," the General Exchequer Contributions are to be apportioned among the counties and county boroughs according to the rules already summarized, and the amounts so apportioned are called "the county apportionment" or "the county borough apportionment," as the case may be (s. 88). Out of the county apportionment is to be set aside such amount as will be sufficient to pay (outside London, s. 89) to the district councils and (in London, s. 98) to the City Council and the metropolitan borough councils, their respective contributions, and the residue is paid to the county council and is called "the General Exchequer Grant."

There are special provisions relating to the apportionment (*a*) of the expenditure of any authority between the several counties or county boroughs into which the area of the authority extends, and (*b*) of the amounts paid or payable to any authority out of the distributed grants (s. 109).

As to the "ADDITIONAL EXCHEQUER GRANTS," if the county apportionment is insufficient for its purpose, the deficiency is to be made good by Parliament by "Additional Exchequer Grants," the rules for which are the same in London (s. 99) and outside (s. 90), and may be summarised as follows: A "standard sum" is first ascertained thus (s. 90 (3)) : if for the fixed grant period in question (*a*) the General Exchequer Contribution is less than that for the first period, the standard sum is to be the amount of the loss in rates and grants reduced proportionately to that diminution in contribution, and (*b*) the weighted population of the county is less than it was for the first period adjusted as regards unemployment, the standard sum is to be the same loss reduced, or further reduced if there has been a reduction under (*a*), proportionately to that diminution in weighted population. "Adjusted as regards unemployment" in this connection means (s. 90 (4)) calculated as if the above mentioned "appropriate multiple" (*ante*, pp. 15, 16) had been the multiple appropriate to the period in question and not to the first period.

Having ascertained this standard sum, the Additional Exchequer Grant for the first period is to be that sum plus one shilling per head of the estimated population of the county for the year April 1, 1928, to March 31, 1929 (s. 90 (1)). For each subsequent period it is to be the deficiency by which the county apportionment falls short of the standard sum increased by the greater of (*a*) a sum equal to one shilling per head of the estimated population for the last year of the preceding period, or (*b*) a sum equal to one-third of the excess of the county apportionment for the period in question over what would have been the county apportionment for the period in question had the General Exchequer Contribution for that period been the same as the General Exchequer Contribution for the first period (ss. 90 (2), 134 " appropriate year").

As to the "GRANTS TO COUNTY DISTRICTS," the sum to be set aside out of the county apportionment and paid to the council of an urban district is the number of pence to the nearest penny produced by dividing one-half of the total of the county apportionments (exclusive of deficiency moneys provided by Parliament) to counties outside London by the aggregate of the estimated populations of those counties in the appropriate year multiplied by the estimated population of the district in that year, together with the additional sums mentioned below; and that to be set aside and paid to the council of a rural district is one-fifth of that number of pence multiplied by the estimated population of the district in the appropriate year, together with the additional sums mentioned below (s. 91, Sched. IV, Part IV). In both urban and rural districts where there are maternity and child welfare committees, there is to be such additional sum as the Minister of Health thinks fit, having regard to the expenditure on such service (s. 93). In rural districts, where in the standard year there is a special or parish rate, there is to be an additional sum, in respect of each year during the first four fixed grant periods equal to the appropriate percentage of the loss on account of such rate, and, during the first and second fixed grant periods, a further additional sum equal to 25 per cent. of that loss and thereafter such sum as the county council may determine (s. 92 (1)). In rural districts, the additional sums so payable are to be applied as may be prescribed by regulations of the Minister of Health (ss. 92 (2), 134 "prescribed").

As to the "SUPPLEMENTARY EXCHEQUER GRANTS," in addition to the foregoing payments, for a period of nineteen years from April 1, 1930, there are to be grants for the purpose of adjusting as between separately rated areas in any county any decreases and increases in the poundage of rates (other than special and parish rates) due to the operation of the provisions of the Act relating to Poor Law, Roads, Rating, and Grants; and for the first five years of that period the amount is to be the full amount of the loss, and for each of the next fourteen years it is to be "an amount less than the amount so added in the preceding year by a sum equal to one-fifteenth of the amount added for the year beginning on" April 1, 1930 (s. 94, Sched. V).

As to the "GRANTS TO COUNTY BOROUGHS AND IN LONDON," special provisions are made with regard to county boroughs, as to General Exchequer Contributions (s. 95), Additional Exchequer Grants (s. 96), and Supplementary Exchequer Grants (s. 97); and with regard to London, as to General Exchequer Grants (s. 98), and Supplementary Exchequer Grants

(s. 100), those as to Additional Exchequer Grants being the same in London as outside (s. 99).

Exchequer grants are payable at such times and in such manner as the Treasury may direct (s. 103), and "general" or "additional" grants must be applied to general county purposes (s. 105).

Any grant may be reduced by the Minister of Health if satisfied that there has been failure to "achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions relating to public health services, regard being had to the standards maintained in other areas whose financial resources and other relevant circumstances are substantially similar, and that the health or welfare of the inhabitants of the area of the council or some of them has been or is likely to be thereby endangered"; or that "the expenditure of the council has been excessive and unreasonable, regard being had to the financial resources and other relevant circumstances of the area"; or if the Minister of Transport "certifies that he is satisfied that the council have failed to maintain their roads or any part thereof in a satisfactory condition" (s. 104).

Six months before the beginning of each fixed grant period, county and county borough councils outside London are required to prepare and submit to the Minister of Health schemes for annual contributions to voluntary maternity and child welfare associations (s. 101 (1) (2)). On failure to make such a scheme, the Minister may make one himself (s. 101 (3)). The county schemes are to determine whether such contributions are to come from the district councils, and, if they so determine, these councils are to prepare schemes (s. 101 (4)). Provision is made for varying the schemes (s. 101 (5)), and in London the Minister makes the schemes himself after consultation with the councils concerned (s. 101 (6)).

With regard to contributions to voluntary associations for the blind and mental defectives, and the King Edward VII Welsh National Memorial Association, the Minister makes the schemes (s. 102).

On application by a county or county borough council the contribution to a voluntary association which promotes any public health service may be made by the Minister direct out of the General Exchequer Grant (s. 106).

It is expressly declared (s. 135) that it is the "intention" of the Act that, "in the event of material additional expenditure being imposed on any class of local authorities by reason of the institution of a new public health or other service after the commencement of the Act, provision should be made for increased contributions out of moneys provided by Parliament."

The Minister of Health is given power to make regulations for giving effect to the provisions of this Part of the Act, and in particular (a) for apportioning the expenditure of joint authorities among the constituent areas; (b) for adjusting grants in the case of alterations of boundaries, etc.; (c) for the making of calculations and estimates, the giving of information, and abnormal circumstances; and (d) for the prescribing of anything which has to be prescribed (s. 108); and, where boundaries are altered before April 1, 1930, the Minister may make equitable adjustments (s. 111).

PROPERTY AND LIABILITIES.

Property and liabilities of poor law authorities vest, on April 1, 1930 (or, in the case of displaced defaulting guardians, on April 1, 1935—see s. 20 (2) (a)), in the councils of the counties or county boroughs (s. 113 (1)), subject to special provisions with regard to overlapping areas (s. 113 (2)), temporary loans under the Local Authorities (Financial Provisions) Act, 1921 (s. 114), and parish property (s. 115). The transfer of property and liabilities of guardians under the Registration Acts has already been noted (*ante*, p. 4). For definitions of "property" and "liabilities," see section 134 and the Note thereto.

As from April 1, 1930, "the property and liabilities of every district council, in so far as they relate to any roads which immediately before" that day "were, or as from that day become, vested in the county council, shall, as from that day, by virtue of this section be transferred to and vest in the county council," subject to adjustments for various reasons (s. 117), and to special provisions relating to quarries, plant, materials and depots (s.118).

There are "transitional" provisions as to the transfer of property (s. 132 (1), Sched. IX, Part I (1)).

OFFICERS.

With regard to the "TRANSFER OF OFFICERS," anyone who on November 12, 1928, was an officer of a poor law authority, and is, on April 1, 1930, an officer of the same or any other poor law authority, becomes an officer of the county or county borough council to which the functions of the authority are transferred, subject to special provisions in the case of poor law areas in more than one county or county borough (s. 119). For definitions of "functions," "officers," "poor law authority," "poor law area," "transferred officer," and "transferred services," see section 134.

Anyone who, on November 12, 1928, was a "road officer" (i.e., "employed as the road surveyor of a highway authority or employed under the control of such a surveyor in the surveying, making, maintenance or repair of roads"—see s. 134) of "any highway authority," and is, on April 1, 1930, "a road officer of a rural district council," becomes an officer of the county council if the district of the council of which he was a road officer on April 1, 1930, was wholly within the county (s. 120 (a)). In other cases the county councils may agree as to the council to whom he is to be transferred, or, if they cannot agree before February 1, 1930, the Minister of Transport decides between them (s. 120 (b)). Where highway functions are delegated to a rural district council, such officers may be transferred, or retained, or their services may be used jointly (s. 120 proviso).

A transferred officer is to hold office "by the same tenure and on the same conditions as immediately before" April 1, 1930, "and while performing similar duties shall, in respect thereof, receive not less salary or remuneration than the salary or remuneration to which he would have been entitled if this Act had not been passed"; and the council to whom functions are transferred under this Act may "employ a transferred officer in the discharge of such of their functions as they may think proper, and every officer shall perform such duties in relation to those functions as may be directed by the council."

The transfer of registration officers has already been mentioned (*ante*, p. 4).

With regard to "COMPENSATION TO EXISTING OFFICERS," anyone who, on November 12, 1928, was an officer of an authority or committee from whom functions are transferred under this Act, and is an officer of such an authority or committee on April 1, 1930, and "by virtue of this Act, or of anything done in pursuance or in consequence thereof, suffers any direct pecuniary loss by determination of his appointment, or by diminution or loss of fees, salary or emoluments, and for whose compensation for that loss provision is not made by any other enactment for the time being in force," must be compensated for that loss (s. 123 (1)); and an officer who (a) "at any time within five years after" April 1, 1930, "relinquishes office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before" that day, or (b) "whose appointment is determined or whose salary is reduced within five years after" that day, "because his services are not required, or his duties are diminished, and not on the ground of misconduct" is "deemed, unless the contrary is shown, to have suffered a direct pecuniary loss in consequence of this Act" (s. 123 (3)). Claims are to be made and determined in the manner laid down in the Act (s. 123 (2) (4), Sched. VIII).

With regard to "SUPERANNUATION OF TRANSFERRED OFFICERS," separate provisions are enacted with regard to poor law officers (s. 124), and road officers (s. 125), and the Poor Law Officers' Superannuation Act, 1896, the Asylum Officers' Superannuation Act, 1909, the Asylum and Certified Institutions (Officers' Pensions) Act, 1918, the Local Government and other Officers' Superannuation Act, 1922, and the Teachers' Superannuation Act, 1925, are applied respectively with modifications.

The Minister of Health is given power, on the application of officers and councils concerned, to determine questions relating (a) to "the transfer of any officer in consequence of the provisions of this Act," (b) to "the council to whom application by an officer is to be made for compensation under this Act," and (c) to "the fund out of which compensation (if any) is to be paid, or the proportions in which any compensation awarded is payable by councils" (s. 126).

GENERAL.

Some of the "general" provisions (Part VIII) of the Act have already been summarised. Thus, section 135 (*ante*, pp. 19, 20) relates to increase of grants, and section 136 (*ante*, p 11) to the transmission of the benefit of transport de-rating to customers.

Section 127 relates to the furnishing of information by poor law authorities and district councils to county authorities; section 128 to expenses of, and lending and borrowing by, county authorities; and section 129 applies three different sets of statutory provisions for the holding of local inquiries to the inquiries held under the Act by the Minister of Health, the Minister of Transport, and the Home Secretary respectively.

Section 130, about which there was so much controversy, gives the Minister of Health power to make orders removing "any difficulty" which "arises in connection with the application of this Act to any exceptional area or in bringing into operation any of the provisions of this Act." The expression "exceptional area" is defined as including "any poor law area which is not wholly comprised within one county or county borough, any district which is not wholly comprised within one county, or which is administered by the council of an adjoining district in another county, any parish which is not wholly comprised within one county, county borough or district, or which is not within the same district for municipal and sanitary purposes, and any area which enjoys or is subject to any special privilege, exemption or liability in respect of rating or valuation." Such orders "may modify the provisions of this Act so far as may appear to the Minister necessary for carrying the order into effect." But (a) the power must be exercised before December 31, 1930; (b) the orders are to be laid before Parliament when made; and (c) unless previously approved by a resolution of each House, they are only in operation for three months, allowance being made for Parliamentary dissolutions, prorogations, and adjournments. They are not required to be "laid on the Table" (s. 131 (3)).

Section 131 contains general provisions as to the making, variation, and revocation of orders, schemes, and regulations made under the Act, and provides for addresses to the Crown in respect of orders and regulations required to be "laid on the Table."

Section 132 and Scheds. IX and X relate to transitional and temporary matters and to the adaptation of enactments; section 133 contains special temporary provisions for the adjustment of reduced and unreduced rateable values; section 134 defines 48 expressions; section 137 and Sched. XII effect numerous repeals; and the last section (s. 138) gives the Act its short title and provides for its application or non-application, as the case may be, to Scotland, Northern Ireland, the Isles of Scilly, and the Isle of Wight.

THE LOCAL GOVERNMENT ACT, 1929.

(19 *Geo. V, c.* 17)

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THE LOCAL GOVERNMENT ACT, 1929.

(19 *Geo. V, c.* 17)

AN ACT TO

Amend the law relating to the administration of poor relief, registration of births, deaths, and marriages, highways, town planning and local government; to grant complete or partial relief from rates in the case of the hereditaments to which the Rating and Valuation (Apportionment) Act, 1928, applies; to discontinue certain grants from the Exchequer and provide other grants in lieu thereof; and for purposes consequential on the matters aforesaid.

[March 27, 1929.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

POOR LAW.

Transfer and administration of functions.

SECT. 1. [*Transfer of functions of poor law authorities.*]

On the appointed day the functions of each poor law authority, shall, subject to the provisions of this Act and except as otherwise expressly provided by this Act, be transferred to the council of the county or county borough comprising the poor law area for which the poor law authority acts, or, if the poor law area is not wholly comprised within one county or county borough, the functions of the poor law authority so far as they relate to any county or county borough into which the area extends shall be transferred to the council thereof, and as from the appointed day all then existing poor law authorities shall cease to exist.

Note.

POOR LAW.—*For a summary of the provisions of this Part of the Act, see the Introduction ;* (1) *and, for books dealing with the poor law, see those mentioned below.*(2)

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(1) *Ante*, p. 1.

(2) "Davey's Poor Law Statutes, 1928," published by Stevens and Sons, Ltd. "Laws of England," Vol. XXII and Supplement.

APPOINTED DAY.—*By sect.* 134, *the appointed day, for the purposes of this Part of the Act, is April* 1, 1930, *but in special cases it may be April* 1, 1935, *see sect.* 20 (2).

DEFINITIONS.—*For definitions of the following expressions used in Part I, see sect.* 134, *namely, "county," "district," "functions," "Minister," "poor law authority," "poor law area," "prescribed," and "property and liabilities."*

TRANSFER OF PROPERTY, OFFICERS, ETC.—*For other provisions of the Act dealing with poor law matters, see sect.* 113, *as to the transfer of property and liabilities ; sect.* 114, *as to temporary loans raised by poor law authorities ; sect.* 115, *as to parish property vested in boards of guardians ; sects.* 119 *and* 121, *as to the transfer of poor law officers ; sect.* 123, *as to compensation to existing officers ; sect.* 124, *as to superannuation of transferred poor law officers ; and sect.* 126, *as to the determination of questions as to transferred officers. Part VIII contains general provisions relating to information to be given by poor law authorities and district councils to county councils* (*sect.* 127) *; expenses lending and borrowing* (*sect.* 128) *; inquiries* (*sect.* 129) *; power to remove difficulties* (*sect.* 130) *; orders, schemes, and regulations* (*sect.* 131) *; transitory provisions and adaptation of enactments* (*sect.* 132) *; and repeals* (*sect.* 137).

SECT. 2. [*Special provisions as to functions of poor law authorities in respect of infant life protection and vaccination.*]

As from the appointed day the following provisions shall have effect with respect to functions relating to infant life protection and vaccination formerly discharged by poor law authorities :—

(*a*) functions under Part I of the Children Act, 1908, shall be discharged by the councils of counties and county boroughs as functions under the Maternity and Child Welfare Act, 1918, except that where the council of a district have established a maternity and child welfare committee the said functions shall, in that district, be discharged by the council of the district and not by the county council ; and

(*b*) functions relating to vaccination shall be discharged by the councils of counties and county boroughs as functions relating to public health ; and

(*c*) The provisions of this Part of this Act relating to administrative schemes and accounts and audit shall not apply as respects the functions aforesaid.

Note.

MATERNITY AND CHILD WELFARE.—*Part I of the Children Act*, 1908, *which relates to notices to be given to local authorities by persons receiving infants for reward* (*sect.* 1), *the appointment by local authorities of infant protection visitors* (*sect.* 2), *and other matters affecting the protection of infant life* (*sects.* 3–11), *will be found in the Appendix*,[1] *which also contains the Maternity and Child Welfare Act*, 1918.[2]

VACCINATION.—*For the provisions relating to vaccination, see the Vaccination Acts*, 1867,[3] 1871,[4] 1874,[5] 1898,[6] *and* 1907,[7] *and the "adaptations" in Sched. X* (24) (*b*) *of the present Act. For works on this subject, see those mentioned below.*[8]

As to "payments to public vaccinators," see Sched. III (4) *of the present Act.*

On August 14, 1914, *the Medical Officer of the Local Government Board issued a Memorandum on the duties of district councils in connection with outbreaks of smallpox.*[9] *See also the Circulars of the Minister of Health cited in the footnote.*

It was held that the duty of guardians of the poor to enforce these Acts could not be enforced by mandamus, at any rate at the instance of sanitary authorities.[10]

Vaccination officers were ordered by mandamus to allow an inspection of their vaccination register, it being held that sect. 24 *of the Act of* 1867 *had not been impliedly repealed by the subsequent Acts.*[11]

SECT. 3. [*Power to combine councils for special purposes.*]

(1) Where any two or more councils, whether councils of counties or county boroughs, consider that it is expedient that

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(1) *Post*, p. 318.
(2) *Post*, p. 324.
(3) 30 & 31 Vict. c. 84.
(4) 34 & 35 Vict. c. 98.
(5) 37 & 38 Vict. c. 75.
(6) 61 & 62 Vict. c. 49.
(7) 7 Edw. VII, c. 31, as to "conscientious objectors."

(8) "Laws of England," Vol. XXIII, pp. 468–485, and Supplement; "Shaw's Vaccination Law," 1908.

(9) 12 L.G.R. (Orders), 450–465. See also Circulars of Minister of Health on "Smallpox among Casuals," of Jan. 23, March 30, June 28, and Sept. 28, 1928, set out in 26 L.G.R. (Orders) at pp. 9, 136, 287, and 382; on "Public Vaccination Administration," of Feb. 13, 1928, *ibid.*, at p. 43; and on "Register of Cases in Smallpox Hospitals," of May 16, 1928, *ibid.*, at p. 276.

(10) *Reg.* v. *Lewisham Guardians*, L.R. 1897, 1 Q.B. 498; 66 L.J.Q.B. 403; 76 L.T. 324; 61 J.P. 151.

(11) 30 & 31 Vict. c. 84, s. 24; *Rex* (*Peabody Governors*) v. *Southwark Guardians Vaccination Officers*, L.R. 1928, 1 K.B. 65; 96 L.J.K.B. 707; 137 L.T. 328; 91 J.P. 112; 25 L.G.R. 284; 43 T.L.R. 492.

the areas of the councils should be combined for any purpose connected with the administration of the functions transferred or to be transferred under this Part of this Act and make application to the Minister for the purpose, the Minister may make an order for combining the areas of the councils for the purposes named therein.

(2) Where it appears to the Minister that the combination of the areas of any two or more councils, whether councils of counties or county boroughs, for any purpose connected with the administration of the functions transferred or to be transferred under this Part of this Act, would tend to diminish expense, or would otherwise be of public or local advantage, the Minister may make an order for combining the areas of the councils for the purposes named therein:

Provided that an order shall not be made under this subsection except after a local inquiry, unless all the councils whose areas are to be so combined consent.

(3) An order under this section may establish for the purposes of the order a joint committee of the councils, and may constitute the joint committee a body corporate with perpetual succession and a common seal and with power to hold land for the purposes of their functions without licence in mortmain.

(4) Any such order shall define the functions of the joint committee, and regulate the election, meetings and business of the joint committee, the mode of defraying the expenses of the joint committee, and any other matter or thing which it appears necessary or proper to regulate for the better carrying into effect of the order, and may provide for making applicable, subject to the necessary modifications, to the joint committee any of the provisions of this Part or Parts VII or VIII of this Act (including the provisions as to administrative schemes).

(5) An order under this section may be made either before or after the appointed day, and

(*a*) where the order takes effect on the appointed day, any functions which under the order are to be functions of the joint committee shall, as from the appointed day, be transferred to the joint committee, and shall not be transferred to any of the councils included in the combination; and (*b*) where the order takes effect after the appointed day, a council included in such a combination shall, save as otherwise provided by the order, cease to exercise any functions vested by the order in the joint committee.

(6) An order under this section shall be laid before Parliament as soon as may be after it is made.

Note.

THE MINISTER.—*By sect.* 134, "*Minister*" *means the Minister of Health. For the definitions of* "*appointed day*" *and other expressions used in this Part of the Act, see the Note to sect.* 1.

JOINT ACTION.—*As to the* "*combination*" *of local authorities see sects.* 279–284 *of the Public Health Act,* 1875,[1] *and, as to* "*joint committees,*" *see sect.* 57 *of the Local Government Act,* 1894.[2]

ORDERS.—*As to* "*orders*" *under the present Act, see sect.* 131.

SCHEMES.—*As to* "*administrative schemes,*" *see the next section and sect.* 131.

INQUIRIES.—*As to local inquiries, see sect.* 129 *and Note.*

SECT. 4. [*Administrative schemes.*]

The council of every county and county borough shall prepare, and within six months after the commencement of this Act submit to the Minister, a scheme (hereinafter referred to as an administrative scheme) of the administrative arrangements proposed to be made for discharging the functions transferred to the council under this Part of this Act:

Provided that the Minister may on the application of a council extend the time within which a scheme is to be submitted if he is satisfied that there is reasonable cause for such extension.

Note.

SCHEMES.—*As to the contents of these schemes, see sects.* 5–7; *as to their approval by the Minister, see sect.* 8; *as to such schemes in London, see sect.* 18; *and as to schemes under the Act generally, see sect.* 131.

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1) And the Note thereto in "Glen's Public Health," 1925 Edition, at pp. 725–727.

(2) And the Note thereto, *ibid.*, at pp. 2091, 2092. Sects. 57 (as to joint committees) and 58 (as to accounts of committees) of the Act of 1894 will be found in the Appendix, *post*, p. 310.

SECT. 5. [*Provisions as to alternative powers of giving assistance.*]

(1) A council in preparing an administrative scheme shall have regard to the desirability of securing that, as soon as circumstances permit, all assistance which can lawfully be provided otherwise than by way of poor relief shall be so provided, and accordingly any such scheme may declare that any assistance which could, after the appointed day, be provided either by way of poor relief or by virtue of any of the following Acts as amended by any subsequent enactment including this Act (that is to say)—

(*a*) The Public Health Act, 1875 :

(*b*) The Local Government Act, 1888 :

(*c*) The Mental Deficiency Act, 1913 :

(*d*) The Maternity and Child Welfare Act, 1918 :

(*e*) The Blind Persons Act, 1920 :

(*f*) The Public Health (Tuberculosis) Act, 1921 :

(*g*) The Education Act, 1921 :

shall be provided exclusively by virtue of the appropriate Act and not by way of poor relief, but nothing in this subsection or in any scheme shall diminish or otherwise affect the duty of a council under section 34 of the Poor Law Act, 1927, to provide relief for the poor.

For the purposes of this subsection, the expression "assistance" includes maintenance and treatment at hospitals and other places, the education of children, and any other services which could, after the appointed day, be provided either by way of poor relief or by virtue of any of the above-mentioned Acts.

(2) Where in the case of a county the scheme declares that the education of any children who are being maintained by the council in any institution shall be provided under the Education Act, 1921, the council may make arrangements for that purpose with the local education authority for elementary education for the area in which such institution is situated upon such terms and conditions (including the use by the local education authority of any buildings, premises or equipment belonging to the council) as may be agreed.

(3) Where in the case of a county the scheme declares that any assistance which could be provided by virtue of the Maternity and Child Welfare Act, 1918, shall be provided under that Act, the county council may make arrangements with the council of any district wholly or partly in the county, who have established

a maternity and child welfare committee, for the provision of such assistance within the district by the council thereof upon such terms and conditions (including the use by the district council of any buildings premises or equipment belonging to the county council) as may be agreed, and any such arrangements may require the district council to furnish the county council with particulars of any assistance given by the district council under the Maternity and Child Welfare Act, 1918, whether in pursuance of the arrangements or otherwise.

Note.

Poor Relief.—*The enactment referred to in subsect.* (1) *of the present section, sect.* 34 (1) *of the Poor Law Act,* 1927,[1] *made it the duty of every board of guardians* " (*a*) *to set to work or put out as apprentices all children whose parents are not, in the opinion of the board, able to keep and maintain their children ;* (*b*) *to set to work all such persons, whether married or unmarried, as have no means to maintain themselves, and use no ordinary and daily trade of life to get their living by ;* (*c*) *to provide such relief as may be necessary for the lame, impotent, old, blind and such other persons as are poor and not able to work ; and* (*d*) *to do and execute all other things concerning the matters aforesaid as to the board may seem convenient.*" *By subsect.* (2) *of the same section,* "*subject to the provisions of this Act as to orders of removal, the duties of a board of guardians under this section shall apply to all persons within their poor law union.*" *The provisions referred to in subsect.* (2) *as to orders of removal are contained in sects.* 120 *to* 132.[2] *See the* "*adaptations*" *in Sched. X* (1), (21)–(23), *post.*

Hospitals.—*The provisions of the Public Health Act,* 1875, *and amending Acts, as to hospitals will be found in the Note to sect.* 14.

Mental Deficiency and Education.—*The Mental Deficiency Acts,* 1913 *and* 1927,[3] *and the Education Act,* 1921,[4] *are too long to*

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(1) 17 & 18 Geo. V, c. 14, s. 34.

(2) *Ibid.*, ss. 120–132, as amended by s. 137 and Sched. XII, Part I, of the present Act. For "adaptations" of the Act of 1927, see Sched. X (21). For ss. 120–132 of that Act, see Davey's "Poor Law Statutes," 1928 Edition, at pp. 148–165. For the Law of Settlement and Removal of Paupers, see Davey's "Poor Law Settlement and Removal," 1925 Edition. For "transitional provisions" as to "settlement and irremovability," see Sched. IX, Part I (3).

(3) 3 & 4 Geo. V, c. 28. See Davey's "Law Relating to the Mentally Defective," 1913 Edition; and Theobald's "Lunacy," 1924 Edition, pp. 190–206. See also the Mental Deficiency Act, 1927 (17 & 18 Geo. V, c. 33), as partly repealed by s. 137 of the present Act, and the Mental Deficiency (Notification of Children) Regulations, 1928, set out in 26 L.G.R. (Orders), 488–493.

(4) 11 & 12 Geo. V, c. 51. See Owen's "Education Acts Manual," 1923 Edition.

be included in this work. Reference may be made to the works mentioned in the footnotes.

MATERNITY AND CHILD WELFARE, BLIND PERSONS, AND TUBERCULOSIS.—*The Maternity and Child Welfare Act,* 1918,[1] *the Blind Persons Act,* 1920,[2] *and the Public Health* (*Tuberculosis*) *Act,* 1921,[3] *have been set out in the Appendix.*

SECT. 6. [*Public assistance committee.*]

(1) An administrative scheme shall provide for the constitution of a committee of the council (hereinafter referred to as the public assistance committee), and may provide—

(*a*) that any other committee of the council shall act as the public assistance committee, or that the members for the time being of any other such committee shall so act; and

(*b*) for the inclusion in the public assistance committee or among any members of another committee acting as such, of persons who are not members of the council, some of whom shall be women;

so, however, that of the whole number of members of the public assistance committee or committee or body acting as such, two-thirds at least shall be members of the council.

(2) Subject to the provisions of the last foregoing section, all matters relating to the exercise by the council of the functions (other than those specified in section 2 of this Act) transferred to them under this Part of this Act, except the power of raising a rate or borrowing money, shall stand referred to the public assistance committee, and the council before exercising any such functions shall, unless in their opinion the matter is urgent, receive and consider the report of the public assistance committee with respect to the matter in question.

(3) The scheme may provide for the delegation by the council to the public assistance committee, with or without any restrictions or conditions as they think fit, of any of the functions so transferred, except the power of raising a rate or borrowing money, and may provide for the discharge, on behalf of and subject to the general direction and control of the public assistance committee, of any of the functions of that committee by any of the other committees of the council.

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(1) *Post,* p. 324. (2) *Post,* p. 326. (3) *Post,* p. 328.

SECT. 7. [*Guardians committees and sub-committees.*]

(1) In the case of a county the administrative scheme shall provide—

(*a*) for the division of the county into areas, each area consisting of one or more districts, and for the constitution for each such area of a local sub-committee of the public assistance committee (to be called the guardians committee of the area) consisting of not more than thirty-six nor less than twelve members:

(*b*) for each guardians committee consisting of—

(i) members for the time being of the council of the district, or of every district, comprised in the area, as the case may be, nominated by the council thereof;

(ii) members for the time being of the county council representing electoral divisions wholly or partly comprised in the area;

(iii) persons (not being elected members of the county council, and including women as well as men) appointed by the county council, so, however, that the number of persons so appointed shall not exceed one-third of the total number of members of the committee;

(*c*) for the discharge, subject to such general or special restrictions or conditions as the county council may from time to time impose, by each guardians committee or a sub-committee thereof of such of the functions transferred to the council under this Part of this Act as relate to the following matters—

(i) the consideration and examination of applications for relief;

(ii) the determination of the nature and amount of the relief, if any, to be given to such applicants;

(iii) the determination of the amount, if any, to be paid by any recipient of relief, or the persons liable for his maintenance, towards reimbursing the council the amount expended by them on his relief;

(iv) the visiting inspection or management, if the public assistance committee so request, of any poor law institutions in the area for which the guardians committee is appointed :

so, however, that the functions to be delegated under this subsection shall not include the appointment or dismissal of any officer :

Provided that upon representations made by the council of any county that special circumstances exist in that county or in any part thereof the Minister may, if he thinks fit, direct that the provisions of this section shall not apply as respects that county or part.

(2) Where a district is not wholly comprised within one county, the portion of the district situate within any county shall, for the purposes of the last preceding subsection, be treated as if it were a separate district.

(3) In appointing persons other than elected members of the county council to be members of any guardians committee a county council shall have regard to the desirability of including persons who are members of poor law authorities immediately before the appointed day and other persons of experience in the matters to be dealt with by the committee.

(4) The scheme shall provide for effective consultation between the public assistance committee and the guardians committee of any area upon business relating specially to that area, and in particular shall empower every guardians committee to nominate their chairman or other representative to be present at any meeting of the public assistance committee at which business specially relating to the area of the guardians committee is to be transacted. Any person so nominated shall be entitled to take part in the proceedings at any such meeting so far as they relate specially to the area of the guardians committee by whom he was nominated but not to vote.

(5) The scheme shall determine the place where a guardians committee shall sit, and any local authority shall allow a guardians committee or any sub-committee thereof to use free of charge for the purposes of their meetings, at any time when not required for the use of the local authority, any premises belonging to the authority.

(6) In the case of a county borough, the administrative scheme may provide for the appointment of sub-committees of the public assistance committee, consisting wholly or partly of members of

the public assistance committee, and for the functions of any such sub-committee :

Provided that—

(*a*) a majority of the members of every sub-committee appointed under this subsection shall be members of the council; and

(*b*) where the scheme provides for the appointment as members of any such sub-committee of persons who are not members of the council, it shall provide for the inclusion of women as well as men, and regard shall be had to the desirability of including persons who are members of poor law authorities immediately before the appointed day and other persons of experience in the matters delegated or referred to the sub-committee.

SECT. 8. [*Approval of schemes.*]

(1) As soon as an administrative scheme has been submitted to the Minister, the council submitting the scheme shall publish in one or more newspapers circulating in their area a notice stating that the scheme has been so submitted and that a copy thereof is open to inspection at a specified place, and that representations thereon may be made to the Minister within four weeks after the publication of the notice, and in the case of a scheme submitted by a county council shall send a copy of the scheme to the council of each district wholly or partly within the county.

(2) No scheme so submitted to the Minister shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any representations with respect to the scheme which may be submitted to him within four weeks after the publication of such notice as aforesaid by any local authorities and other parties who appear to him to be interested, and after consultation (if and so far as the scheme relates to education) with the Board of Education, may approve the scheme with or without modifications.

(3) If a council fail to submit to the Minister an administrative scheme within the time allowed for the purpose, the Minister may, after consultation with such local authorities as appear to him to be interested, and (if and so far as the scheme relates to education) with the Board of Education, himself make an administrative scheme, but before making such a scheme the Minister shall publish in one or more newspapers circulating in the area to which the scheme will relate a notice stating his

intention to make the scheme, and that a copy of the draft scheme is open to inspection at a specified place and that representations thereon may be made to the Minister within four weeks after the publication of the notice, and shall consider any representations which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme submitted by the council and approved by the Minister.

Miscellaneous Provisions.

SECT. 9. [*Acquisition of land.*]

For the purposes of the functions transferred to them under this Part of this Act, a council shall have power to acquire, dispose of, or otherwise deal with land—

(*a*) in the case of a county council, in like manner as for the purposes of their other functions and section 64 (3) and section 65 of the Local Government Act, 1888, shall apply accordingly;

(*b*) in the case of a county borough council, in like manner as for the purposes of the Public Health Act, 1875, and sections 175 to 178 of that Act shall apply accordingly.

Note.

LAND.—*Sects.* 64 (3) *and* 65 *of the Local Government Act,* 1888,[1] *and sects.* 175 *to* 178 *of the Public Health Act,* 1875,[2] *will be found in the Appendix.*

SECT. 10. [*Disqualifications.*]

(1) A person shall, after the appointed day, be disqualified for becoming or being a member of the council of a county or county borough if he has within twelve months before becoming, or has since becoming, such a member received poor relief, except that he shall not be so disqualified by reason only that he or a member of his family has received medical or surgical treatment, or been an inmate of an institution for that purpose, or received relief which could have been granted under the Blind Persons Act, 1920, or been maintained in any place as a pauper lunatic :

Provided that a person who is at the date of the commencement of this Act a member of any such council and has received poor relief before that date, shall not be thereby disqualified for being such a member.

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(1) *Post*, p. 292.

(2) *Post*, p. 279.

(2) A person shall be disqualified for being a member of a committee or sub-committee thereof constituted under an administrative scheme who would be disqualified for becoming or being a member of the council by which the committee is appointed, and a person who acts as a member of such a committee or sub-committee when disqualified shall be liable to the like penalties as if he had acted as a member of the council.

(3) Notwithstanding anything in section 46 of the Local Government Act, 1894, a person shall not, on or after the appointed day, be disqualified for becoming or being a member of any local authority to which that section applies by reason that he or any member of his family has received poor relief, if by virtue of the provisions of this section the receipt of that relief would not disqualify him for becoming or being a member of a county or county borough council.

Note.

DISQUALIFICATIONS.—*By sect.* 75 *of the Local Government Act,* 1888 [1]: "*For the purpose of the provisions of this Act with respect to county councils, and to the chairman, members, committees, and officers of such councils, and otherwise for the purpose of carrying this Act into effect, the following portions of the Municipal Corporations Act,* 1882, *namely, Part II . . . shall, so far as the same are unrepealed and are consistent with the provisions of this Act, apply as if they were herein re-enacted with the enactments amending the same in such terms and with such modifications as are necessary to make them applicable to the said councils and their chairmen, members, committees, and officers, and to the other provisions of this Act.*" *Part II of the Municipal Corporations Act,* 1882,[2] *contains the three following sections relating to disqualifications of county and borough aldermen and councillors :—*

By sect. 12 : "(1) *A person shall be disqualified for being elected and for being a councillor, if and while he* (a) *Is an elective auditor* [*or a revising assessor* [3]], *or holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council ;* [*or* (b) *Is in holy orders, or the regular minister of a dissenting congregation*[4]]; *or* (c) *Has directly or indirectly, by himself or his partner,*

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[1] 51 & 52 Vict. c. 41, s. 75.

[2] 45 & 46 Vict. c. 50, ss. 12, 14 (3), 39.

[3] This office was rendered obsolete by County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

[4] Repealed by Ministers of Religion (Removal of Disqualifications) Act, 1925 (15 & 16 Geo. V c. 54), ss. 1, 2.

any share or interest in any contract or employment with, by, or on behalf of the council:

(2) *But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in* (a) *Any lease, sale, or purchase of land, or any agreement for the same; or* (b) *Any agreement for the loan of money, or any security for the payment of money only; or* (c) *Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted; or* (d) *Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough; or* (e) *Any railway company, or any company incorporated by Act of Parliament or Royal Charter, or under the Companies Act* [1908]."

By sect. 2 *of the Municipal Corporations Amendment Act*, 1906,[1] *the following words were added after* (e): "*or any society registered under the Industrial and Provident Societies Acts*, 1893 *and* 1895."

By sect. 14 (3) *of the Act of* 1882, *if a person is disqualified for being a councillor, he is also disqualified for being an alderman.*

By sect. 39: "(1) *If the mayor, or an alderman or councillor* (a) *Is declared bankrupt, or compounds by deed with his creditors, or makes an arrangement or composition with his creditors, under the Bankruptcy Act* [1914] *by deed or otherwise; or* (b) *Is* (*except in case of illness*) *continuously absent from the borough, being mayor, for more than two months, or, being alderman or councillor, for more than six months:*[2] *he shall thereupon immediately become disqualified and shall cease to hold the office.*

(2) *In any such event the council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members of the council, and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.*

(3) *Where a person becomes so disqualified by being declared bankrupt, or compounding, or making an arrangement or composition, as aforesaid, the disqualification, as regards subsequent elections, shall, in case of bankruptcy, cease on his obtaining his order of discharge, and shall, in case of a compounding or composition as aforesaid, cease on payment of his debts in full, and shall, in case of an arrangement as aforesaid, cease on his obtaining his certificate of discharge.*

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(1) 6 Edw. VII, c. 12, s. 2.

(2) See footnote (4), *post*, p. 51.

(4) *Where a person becomes so disqualified by absence, he shall be liable to the same fine as for non-acceptance of office, recoverable summarily, but the disqualification shall, as regards subsequent elections, cease on his return.*"[1]

The disqualifications for district and parish councils and boards of guardians are contained in sect. 46 *of the Local Government Act,* 1894,[2] *which provides as follows :*

"(1) *A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he*—(a) *is an infant or an alien ; or* (b) *has within twelve months before his election, or since his election, received union or parochial relief ; or* (c) *has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors ; or* (d) *holds any paid office under the parish council or district council or board of guardians, as the case may be ; or* (e) *is concerned in any bargain or contract entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board.*

(2) *Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council or board by reason of being interested*—(a) *in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or* (b) *in any newspaper in which any advertisement relating to the affairs of the council or board is inserted ; or* (c) *in any contract with the council or board as a shareholder in any joint stock company ; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.*

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(1) See footnote (4), *post*, p. 51.

(2) 56 & 57 Vict. c. 73, s. 46.

(3) *Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.*

(4) *Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.*

(5) *A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.*

(6) *If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.*

(7) *Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.*

(8) *If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.*"

There are numerous cases on these disqualifications, and they have been collected in the works mentioned below.[1] *Many of them were discussed in the recent case in the House of Lords,*[2] *in which it was held that a salaried managing director of a company which had contracted with the municipal corporation was not disqualified for being an alderman.*

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(1) "Glen's Public Health," 1925 Edition, at pp. 2069–2082. For fuller notes on these cases, see Maude & Leach on "Contracts of Local Authorities," 1926 Edition.

(2) *Lapish* v. *Braithwaite*, L.R. 1926 A.C. 275; 95 L.J.K.B. 406; 134 L.T. 481; 90 J.P. 65; 24 L.G.R. 125; 42 T.L.R. 263; 70 Sol. J. 365.

It was held, under section 46 *of the Act of* 1894, *that a member of a board of guardians was not disqualified by receipt of poor relief as a patient in a poor law hospital, because she had paid the whole cost of her treatment and also a proper proportion of the establishment charges.*[1] *The present section prevents even unpaid-for treatment in an "institution" disqualifying the patient. The definition of institution in sect.* 16 (3) *of the present Act is confined to "the purposes of" that section.*

As to disqualification for service on assessment committees, see the provision and case mentioned below.[2]

Several Acts contain dispensations from disqualification. Thus, sect. 11 *of the Infectious Disease (Notification) Act,* 1889,[3] *prevents a payment to a medical practitioner in pursuance of that Act disqualifying him "for serving as a member of the council of any county or borough, or as a member of a sanitary authority, or as a guardian of a union, or in any municipal or parochial office." Sect.* 2 *of the Members of Local Authorities Relief Act,* 1900,[4] *gives relief in respect of absence "on active service, or on service beyond the seas." Sect.* 22 (*f*) *of the Housing, etc., Act,* 1923,[5] *provides that "a person shall not, by reason only of the fact that an advance is made to him under" the Small Dwellings Acquisition Act,* 1899,[6] *"be disqualified from being elected as or being a member of the local authority by whom the advance is made or any committee of such local authority." By sect.* 125 *of the Housing Act,* 1925,[7] *"a person shall not, by reason only of the fact that he occupies a house at a rental from a local authority . . . be disqualified from being elected or being a member thereof on any committee thereof," but he may not vote "upon any resolution or question which is proposed or arises in pursuance of this Act, if it relates to any house, building, or land in which he is beneficially interested."*

The Blind Persons Act, 1920, *will be found in the Appendix.*[8]

The next section deals with disqualifications for receiving certain pensions.

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(1) *Ex parte Brewster* (1927, C.A.), 96 L.J.K.B. 741; 137 L.T. 558; 91 J.P. 103 43 T.L.R. 253; 71 Sol. J. 123; 25 L.G.R. 267 (K.B.D. only).

(2) R. & V. Act, 1925 (15 & 16 Geo. V, c. 90), Sched. I (12) and *Rex* v. *N. Worcestershire Assessment Committee* (1929 W.N. 124), in which a rule for prohibition was granted on the ground that certain members of the committee were disqualified under provision 12, but discharged on the ground that the presence of the disqualified members was not the fault of the committee but of the council of the rating area, who were ordered to pay the costs of both applicant and respondent. Now also noted in 93 J.P. Journal 287.

(3) 52 & 53 Vict. c. 72, s. 11.

(4) 63 & 64 Vict. c. 46, s. 2

(5) 13 & 14 Vict. c. 24, s. 22 (f).

(6) 62 & 63 Vict. c. 44.

(7) 15 Geo. V, c. 14, s. 125.

(8) *Post*, p. 326.

SECT. 11. [*Amendment as to disqualification for pensions under 9 & 10 Geo. V, c.* 102, *and* 15 & 16 *Geo. V, c.* 70.]

On and after the appointed day a person who has become an inmate of any poor law institution for the purpose of obtaining medical or surgical treatment shall not, so long as he continues to require such treatment, be disqualified, on the ground only that he is such an inmate, for receiving or continuing to receive an old age pension under the Old Age Pensions Acts, 1908 to 1924, or under the Widows' Orphans' and Old Age Contributory Pensions Act, 1925, and accordingly section 3 (1) of the Old Age Pensions Act, 1919, and paragraph one of the Third Schedule to the Widows', Orphans' and Old Age Contributory Pensions Act, 1925, shall have effect as if the words "during the period of three months from the date on which he becomes such an inmate if he," were omitted therefrom, and as if after the words "so long" there were inserted the words "as he."

Note.

PENSIONS.—*The Old Age Pensions Acts,* 1908,[1] 1911,[2] 1919,[3] 1920,[4] *and* 1924,[5] *and the Widows, etc., Pensions Act of* 1925,[6] *are too long for insertion in this work. They will be found in the works mentioned below.*[7]

SECT. 12. [*Repeal of* 5 *Edw. VII, c.* 18.]

The Unemployed Workmen Act, 1905, shall, as from the appointed day, be repealed, but the Minister may, on such repeal taking effect, make such orders as were by section 8 of that Act authorised to be made on the expiration of the period for which that Act as originally enacted was to continue in force, and any such order may provide for applying, subject to the necessary adaptations, to officers appointed under the said Act any of the provisions of this Act as to the transfer and compensation of officers.

Note.

UNEMPLOYED WORKMEN.—*Sect.* 8 *of the Act of* 1905 *provided as follows :—*[8] "*This Act shall continue in force for three years from the date of the passing thereof, and no longer, unless Parliament otherwise determine, and at the expiration of that period, unless this Act is so continued as aforesaid, the* [*Minister of Health*] *shall make*

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[1] 8 Edw. VII, c. 40.

(2) 1 & 2 Geo. V, c. 16.

(3) 9 & 10 Geo. V, c. 102.

(4) 10 & 11 Geo. V, c. 49, ss. 1, 4 (blind persons).

(5) 14 & 15 Geo. V, c. 33.

(6) 15 & 16 Geo. V, c. 70.

(7) Casson's "Old Age Pensions Act, 1908," 1908 Edition; "Barlow and Gomme" same, 1908 Edition; and "Laws of England," Vol. XXII. pp. 616–623, and Supplement.

(8) 5 Edw. VII, c. 18, s. 8.

such orders as [he thinks] necessary for dissolving the central bodies and distress committees established under this Act, and transferring their property and liabilities ; and for the purposes of such transfer sects. 85, 86, *and* 88 *of the Local Government Act*, 1894 (*which relate to current rates, existing securities and debts, and pending contracts, etc.*), *shall apply, with such modifications and adaptations as may be made by order of the* [*Minister*]." *The Act was continued in force by successive Expiring Laws Continuance Acts. Sects.* 85, 86, *and* 88 *of the Act of* 1894 *will be found in the Appendix.*[1]

The provisions of the present Act as to "the transfer and compensation of officers" will be found in sections 119 *to* 123.

SECT. 13. [*Consultation as to the provision of hospital accommodation.*]

The council of every county and county borough shall, when making provision for hospital accommodation in discharge of the functions transferred to them under this Part of this Act, consult such committee or other body as they consider to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in or for the benefit of the county or county borough as to the accommodation to be provided and as to the purposes for which it is to be used.

SECT. 14. [*Consequential amendments of certain Acts.*]

(1) The Local Government Act, 1888, shall, as from the appointed day, have effect as if amongst the powers conferred by that Act on county councils (including the London County Council) there were included the like powers with respect to the provision of places for the reception of the sick as are conferred on local authorities by section 131 of the Public Health Act, 1875, as amended by section 64 of the Public Health Act, 1925.

(2) Section 131 of the Public Health Act, 1875, as so amended, shall in its application to county councils and county borough councils have effect as if the power to provide places for the reception of the sick included power to provide places for the reception of pregnant women.

(3) A committee appointed under the Public Health Act, 1875, by the council of a county borough for dealing with matters relating to public health, the committee appointed by the London County Council for similar purposes, and the public health and housing committee appointed by a county council

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(1) *Post*, p. 312.

under section 71 of the Housing, Town Planning, &c., Act, 1909, may include members who are not members of the council by which the committee is appointed, so, however, that two-thirds at least of the members of the committee shall be members of the council; and any such committee may, subject to any directions of the council, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

(4) So much of proviso (ii) to section 30 of the Mental Deficiency Act, 1913, as provides that local authorities under that Act shall not have any duties with respect to defectives who are for the time being provided for by poor law authorities shall as from the appointed day cease to have effect.[1]

(5) A committee for the care of the mentally defective constituted under the Mental Deficiency Act, 1913, may, subject to any directions of the local authority under that Act, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

Note.

HOSPITALS.—*Sect.* 131 *of the Public Health Act*, 1875,[2] *provides that " any local authority may provide for the use of the inhabitants of their district hospitals or temporary places for the reception of the sick, and for that purpose may themselves build such hospitals or places of reception; or contract for the use of any such hospital or part of a hospital or place of reception ; or enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on. Two or more local authorities may combine in providing a common hospital." For the corresponding provisions of the Public Health (London) Act*, 1891, *see sect.* 75 *of that Act.*[3] *Sect.* 64 (1) *of the Public Health Act*, 1925,[4] *provides that " the power of a local authority under" sect.* 131 *of the Act of* 1875 *"shall include a power to make reasonable subscriptions or donations to a voluntary hospital or institution, if the local authority are satisfied that by so doing they will maintain or extend or increase the efficiency of hospital accommodation for the sick inhabitants of their district." But section* 64 (2) *provides that "the expenditure under this section of a local authority shall not exceed,*

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(1) 3 & 4 Geo. V, c. 28, s. 30 (ii). For works on this Act, see footnote (3), *ante*, p. 41.

(2) 38 & 39 Vict. c. 55, s. 131.

(3) 54 & 55 Vict. c. 76, s. 75.

(4) 15 & 16 Geo. V, c. 71, s. 64.

in any one year, an amount equal to that which would be produced by a rate of one penny in the pound on the property liable to be assessed for the purpose of the rate out of which such expenditure is payable." *See, however, sect.* 75 (1) *of the present Act, which allows an increase of* $33\frac{1}{3}$ *per cent. Further as to contributions to voluntary associations, see sects.* 101, 102 *and* 106 *of the present Act.*

Sect. 132 *of the Act of* 1875,[1] *as to recovery of expenses, does not apply because of the express provisions for this purpose contained in sect.* 16 *of the present Act.*

By sect. 133 *of the Act of* 1875,[2] "*any local authority may, with the sanction of the* [*Minister of Health*], *themselves provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.*" *This section, however, has not been applied to county councils.*

By sect. 65 *of the Public Health Act,* 1925,[3] "(1) *any local authority by whom a hospital is provided may provide dwelling houses for officers or servants employed at that hospital by the local authority, and may defray any expenses in the execution of the power conferred by this section as expenses incurred by the local authority in the provision of the hospital are defrayed.* (2) *In this section* '*local authority*' *includes a joint hospital board constituted under the Public Health Act,* 1875,[4] *or committee constituted under the Isolation Hospitals Acts,* 1893 *and* 1901,[5] *or any joint committee of local authorities formed for the purpose of providing a hospital.*"[6]

COMMITTEES.—*By sect.* 200 *of the Act of* 1875,[7] "*Every urban authority may from time to time appoint out of their own number so many persons as they may think fit, for any purposes of this Act which in the opinion of such authority would be better regulated and managed by means of a committee: Provided that a committee so appointed shall in no case be authorised to borrow any money, to make any rate, or to enter into any contract, and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it.*"

By sect. 71 (1) *of the Housing Act of* 1909,[8] "*Every county council*

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(1) 38 & 39 Vict. c. 55, s. 132.

(2) *Ibid.*, s. 133.

(3) 15 & 16 Geo. V, c. 71, s. 64.

(4) 38 & 39 Vict. c. 55, ss. 279–285, see "Glen's Public Health," 1925 Edition, at pp. 725–729.

(5) 56 & 57 Vict. c. 68, s. 10, as amended by 1 Edw. VII, c. 8, s. 8, see *ibid.* at pp. 947, 948.

(6) As to "joint committees," see Note on "Joint Action," *ante*, p. 39.

(7) 38 & 39 Vict. c. 55, s. 200. This section was repealed, except as to boroughs, by L.G. Act, 1894, s. 89, Sched. II. As to the "delegation of powers" and "ratification," see the Note to s. 200 in "Glen's Public Health," 1925 Edition, at pp. 555, 556.

(8) 9 Edw. VII, c. 44, s. 71 (1). Subsect. (2) provides that this section "shall not apply to Scotland or the London County Council."

shall establish a public health and housing committee, and all matters relating to the exercise and performance by the council of their powers and duties as respects public health and the housing of the working classes (except the power of raising a rate or borrowing money) shall stand referred to the public health and housing committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the public health and housing committee with respect to the matter in question, and the council may also delegate to the public health and housing committee, with or without restrictions or conditions as they think fit, any of their powers as respects public health and the housing of the working classes, except the power of raising a rate or borrowing money and except any power of resolving that the powers of a district council in default should be transferred to the council."

SECT. 15. [*Consequential alteration of constitution of assessment committees.*]

Note.

ASSESSMENT COMMITTEES.—*As from the appointed day* (*April* 1, 1930), *subsect.* (1) *of the present section amends sect.* 17 (3), *and subsect.* (2) *amends sect.* 17 (4), *of the Rating and Valuation Act,* 1925.[1] *Subsect.* (3) *contains the new provision quoted below. Sect.* 17, *as thus amended, reads as follows, the amendments being in square brackets and the repealed words being in the footnotes :—*

" (1) *There shall be an assessment committee for every assessment area.*" [2]

" (2) *The assessment committee for an assessment area shall, in the case of an assessment area being a county borough, be appointed as soon as may be after the passing of this Act, and in the case of any other assessment area shall be appointed as soon as may be after the assessment area has been constituted, and as from the appointed day assessment committees shall exercise such powers and perform such duties as are conferred on them by this Act, and all assessment committees constituted under the Union Assessment Acts,* 1862 *to* 1880, *shall cease to exist.*"

" (3) *In the case of an assessment area being a county borough, the assessment committee shall consist of such number of*

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(1) 15 & 16 Geo. V, c. 90, s. 17.

(2) As to assessment " areas," see Act of 1925, s. 16, and the Notes thereon in Davey's R. & V. Act, 1925, 1926 Edition, at pp. 37–39. See also the Assessment Committee (Form of Annual Report) Rules, 1928, set out in 26 L.G.R. (Orders) 133–135, and the case cited *ante*, p. 51 (2).

persons to be appointed by the council of the borough as may be determined by the council, [*but not less than one-third of the members of the committee shall be persons who are not members of the council, and if any member of the committee not being a member of the council becomes a member thereof, his term of office as a member of the committee shall thereupon expire.*[1]]

"(4) *In the case of any other assessment area the assessment committee shall consist of persons to be appointed by the following authorities, being authorities whose area or any part of whose area is comprised in the assessment area, that is to say, rating authorities* [boards of guardians] *and the councils of counties, and the proportion in which the said authorities shall be represented shall be determined by the scheme constituting the area.*"

"(5) *The provisions contained in the First Schedule to this Act shall have effect with respect to assessment committees.*" [2]

Subsect. (2) *of the present section, in addition to repealing the words* "*boards of guardians*" *in sect.* 17 (4) *above, provides that* "*any scheme under the said Act constituting an assessment area and determining the proportion in which the various authorities entitled to representation on the assessment committee for the area are to be represented thereon shall, subject to the provisions of any new or amending scheme, have effect as if the references to the members of the committee representing boards of guardians were omitted therefrom.*"

Subsect. (3) *of the present section is as follows :—*"*Notwithstanding anything in the foregoing provisions of this section, the following provisions shall have effect with respect to members of assessment committees holding office immediately before the appointed day :—*(a) *a member appointed by, or on the nomination of, a board of guardians shall not vacate his office by reason of the dissolution of that board or of the fact that he himself ceases to be a guardian ; and* (b) *in the case of an assessment area being a county borough, a member of the assessment committee who is on the appointed day a member also of the council of the borough shall not vacate his office by reason of the fact that more than two-thirds of*

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(1) The repealed words were : " and of the persons to be so appointed not less than one-quarter shall be persons appointed to represent the boards of guardians of any unions any parts of which are comprised in the area of the borough and not less than one-fifth shall be persons who are neither members of the council of the borough nor members of any such board of guardians as aforesaid. The persons appointed as aforesaid to represent boards of guardians shall be persons nominated by the boards."

(2) For this Schedule, see Davey's R. & V. Act, 1925, 1926 Edition, at pp. 122, 123.

the members of the committee are members of the council, but after the appointed day no person being a member of the council shall be appointed to be a member of the committee if on his appointment the number of the members of the committee who are members of the council would exceed two-thirds of the total number of the committee."

SECT. 16. [*Recovery of expenses.*]

(1) As from the appointed day, it shall be the duty of the council of every county and county borough and of every other local authority to recover from any person who has been maintained by them in any institution, other than a person who has become an inmate of an institution for the purpose of receiving treatment for infectious disease, or from any person legally liable to maintain that person, the whole of the expenses incurred by the council or authority in the maintenance of that person, or, if the council or authority are satisfied that the persons from whom the expenses are recoverable cannot reasonably, having regard to their financial circumstances, be required to pay the whole of those expenses, such part, if any, of the expenses as they are in the opinion of the council or authority able to pay:

Provided that any such council or authority may, by agreement with the governing body of any association or fund established for the purpose of providing benefits to members or other beneficiaries thereof, accept from the association or fund, in respect of the expenses incurred by the council or authority in the maintenance of any member or beneficiary of the association or fund, payment of such sums as may be provided by the agreement, in lieu of recovering the whole or any part of the said expenses from the member or beneficiary, or from any person legally liable to maintain him.

(2) Any expenses recoverable under this section shall, without prejudice to any other remedy, be recoverable summarily as a civil debt.

(3) For the purposes of this section—

"Institution" means any hospital, maternity home or other residential institution accommodation wherein is provided by the council of a county or county borough or other local authority under the powers conferred by the Public Health Acts, 1875 to 1926, or the corresponding enactments relating to London, the Local

Government Act, 1888, as amended by this Act, or the Maternity and Child Welfare Act, 1918.[1]

The expenses incurred by the council or authority in providing for the maintenance of a person in an institution shall, in respect of each day of maintenance in the institution, be deemed to be a sum representing the average daily cost per patient of the maintenance of the institution and the staff thereof and the maintenance and treatment of the patients therein.

(4) Nothing in this section shall affect any right which a local authority may have under any enactment or otherwise to recover expenses other than those to which the foregoing provisions of this section apply.

Note.

PATIENT'S EXPENSES.—*The expenses of maintaining a patient are only made recoverable from the patient himself; they cannot, therefore, in the case of a patient under age, be recovered, under the present section, from the patient's parent;*[2] *nor can charitable guardians of children who have been sent to a hospital maintained by a joint hospital board under the present Act be sued under the present section for the maintenance of the children.*[3]

The Local Government Board were of opinion that, if a patient was, on his discharge from the hospital, in a destitute condition, whether or not he was a pauper at the time of his admission, it devolved upon the guardians to give such relief as was necessary, and that, if the patient had no clothing and no means of obtaining any, they or the relieving officer might, on application being made for relief, supply such clothing as was necessary; but the Board declined to say that, in the absence of an agreement on the subject, the council could recover from the guardians the cost of clothing supplied to patients on leaving the hospital.

It would appear that, in the event of a person dying in the hospital in such a state of indigence as to leave no funds applicable to the payment of the cost of interment, the primary obligation to bury the body falls upon the hospital authorities.[4]

SECT. 17. [*Accounts and audit.*]

Separate accounts shall be kept by the council of every county

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(1) See Note to sect. 14 of the present Act. For the Act of 1918, see the Appendix, *post*, p. 324.

(2) *Hull Cpn.* v. *Maclaren*, 1898 Loc. Gov. Chron. 585.

(3) *Farquhar* v. *Isle of Thanet Hospital Bd.* (1904), 68 J.P. 319; 2 L.G.R. 1310.

(4) *Reg.* v. *Stewart* or *Stennett* (1841), 12 A. & E. 773; 4 P. & D. 349; 10 L.J.M.C. 40.

borough of their receipts and expenditure in respect of the functions (other than those specified in section 2 of this Act) transferred to them under this Part of this Act, and discharged by the council as such, and those accounts shall be made up and audited in like manner and subject to the same provisions as in the case of a county council, and the enactments relating to the audit of the accounts of a county council and to all matters incidental thereto and consequential thereon, including penal provisions, shall apply in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit.[1]

Application to London.

SECT. 18. [*Application to London.*]

This Part of this Act shall apply to the County of London subject to the following modifications :—

(*a*) the provisions of section 6 (2) and (3) and section 7 of this Act shall not apply :[2]

(*b*) the administrative scheme may make provision for the reference or delegation by the London County Council to any committee of that council (including the public assistance committee) of any of the functions transferred to the council under this Part of this Act except the power of raising a rate or borrowing money :

(*c*) the administrative scheme may make provision for the appointment—

(i) of sub-committees of the public assistance committee (in this section referred to as "local committees") consisting wholly or partly of members of that committee ; and

(ii) of sub-committees of local committees, consisting wholly or partly of members of the local committees ;

for the functions of such local committees and for the discharge by the sub-committees thereof of any of the functions which, under the foregoing provisions of this Part of this Act, are to be discharged by guardians committees or sub-committees thereof :

(*d*) the London County Council may make arrangements with the common council of the City of London, or the council of any metropolitan borough, for the provision by the common council or metropolitan borough council under the Maternity and Child Welfare Act, 1918, of any assistance which could be provided either by way of poor relief or by virtue of that Act, and the provisions of this Part of this Act relating to arrangements between a county council and the council of a district for the provision of assistance under the Maternity and Child Welfare Act, 1918, shall apply accordingly :[1]

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[1] See L.G. Act, 1888, s. 71, and the enactments therein cited, in the Appendix, *post*, p. 296.

[2] These provisions relate to the delegation of functions to public assistance committees, and to the guardians committees and sub-committees.

(*e*) the functions of the Metropolitan Asylums Board under the Public Health (London) Act, 1891, and section 42 of the Divided Parishes and Poor Law Amendment Act, 1876, shall, as from the appointed day, be transferred to the London County Council :[2]

(*f*) as from the appointed day, any expenses of sanitary authorities in the county of London which under the Public Health (London) Act, 1891, are repayable out of the metropolitan common poor fund, shall be repaid by the London County Council, and any payments which under the Valuation (Metropolis) Act, 1869, are to be made from or to that fund shall be made from or to the county fund :[3]

(*g*) the functions of boards of guardians in the county of London in respect of vaccination, and the officers employed in connection with those functions, shall as from the appointed day be transferred to the common council of the City of London and to the councils of the several metropolitan boroughs instead of to the London County Council, and the appropriate provisions of this Act with respect to the transfer of property and liabilities and the transfer, superannuation and

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(1) See Act of 1918 in Appendix, *post*, p. 324.

(2) See 54 & 55 Vict. c. 76, ss. 79 (power of the Metropolitan Asylums Board to provide landing places, vessels, ambulances, etc.), 80 (reception of non-pauper fever and small-pox patients into hospital), 85 (Metropolitan Asylum Managers a sanitary authority for prevention of epidemic diseases), 86 (contracts with such Managers), and 104 (expenses of such Managers); and 39 & 40 Vict. c. 61, s. 42 (powers of Managers in respect of patients not paupers). See Macmorran's Public Health London Act, 1891, 1910 Edition at pp. 168–170, 174 and 205.

(3) See Act of 1891 (54 & 55 Vict. c. 76), ss. 80 (3) (non-pauper patients in hospitals), 87 (epidemic diseases), 101 (ambulances, etc.). See Macmorran, *supra* footnote (2), pp. 169, 175, 205: and Act of 1869 (32 & 33 Vict. c. 67), s. 28 (fees on appeals). The present Act repeals the Local Authorities (Emergency Provisions) Act, 1928 (18 & 19 Geo. V, c. 9), s. 2 (as to the "metropolitan common poor fund").

compensation of officers shall apply subject to the necessary adaptations :[1]

(*h*) as from the appointed day, the City of London (including the Inner Temple and the Middle Temple) and every metropolitan borough shall be an assessment area, and there shall be for every such area an assessment committee who shall have as regards valuation lists for each parish within their area the same functions as assessment committees had immediately before the appointed day with regard to valuation lists for the parishes in their areas.[2]

The assessment committee shall as from the appointed day consist of such number of persons appointed, in the case of the City of London by the common council, and in the case of a metropolitan borough by the council of the borough, being members of the council, as the council may think fit, together with, in the case of the assessment committee for a metropolitan borough, one person appointed by the London County Council; and the members of the said committees shall be appointed in every year in the month of November or December, and shall hold office until their successors are appointed, so, however, that the first such committee may be appointed at any time before the appointed day, but shall not continue in office after the month of December next following :

Provided that—

(i) no person who is a member of any committee to which the duties of a rating authority with respect to the preparation of a valuation list are referred or delegated shall be qualified for appointment as a member of the assessment committee;

(ii) the London County Council may appoint a person to act for all purposes as a member of the assessment committee in substitution for the person appointed by them as aforesaid at any time when that person is unable to act;

(iii) neither the person nor the substitute to be

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(1) See Notes to ss. 1 and 2, *ante*, pp. 36–37.

(2) As to "assessment committees," see s. 15, *ante*, p. 56.

appointed as aforesaid by the London County Council shall be an officer of that council.

The quorum of the assessment committee shall be such number as the committee may determine, not being less than three.

No member of the assessment committee or person acting as such a member shall receive any remuneration or other like payment in respect of his services as such.

The town clerk, or in the City of London such other officer as the council may designate or appoint, shall be the clerk to the assessment committee :

(*i*) The functions transferred to the London County Council under this Part of this Act shall be exercisable throughout the county of London.

Application to local Act and Appointed Guardians.

SECT. 19. [*Application to local Act guardians.*]

(1) Where a board of guardians is a board constituted or acting under a local Act, the functions transferred to the council of the county or county borough under this Part of this Act shall be the functions of a board of guardians under the Poor Law Act, 1927, and not the functions of the board under the local Act.

(2) Where any property vested in a board of guardians constituted or acting under a local Act is held by them for charitable purposes, nothing in this Act shall transfer such property to the council of any county or county borough; but the Charity Commissioners may, in accordance with their ordinary jurisdiction under the Charitable Trusts Acts, 1853 to 1925, establish a scheme providing for the constitution of a body of trustees to administer the charitable property, and for the vesting or transfer of such property in or to the Official Trustee of Charity Lands, or the Official Trustees of Charitable Funds, as the case may require, or in or to the body of trustees so constituted, or any members thereof, as if the charity were a charity within the jurisdiction of the Commissioners under those Acts, but without the necessity of any application being made for the purpose.[1]

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(1) As to schemes by the Charity Commissioners, see Chilcott's "Administration of Charities," 1912 Edition, with Supplement of 1926 on new Acts; "Laws of England," Vol. IV, pp. 182–189, and Supplement. See also Note to s. 115, *post*, p. 178.

SECT. 20. [*Application to unions with appointed guardians.*]

(1) The provisions of this Act shall apply as respects any poor law union with respect to which an order under the Boards of Guardians (Default) Act, 1926, or section 220 of the Poor Law Act, 1927, constituting an appointed board of guardians for the union is in force at the commencement of this Act, or is made thereafter, subject to the provisions of this section.

(2) The Minister may by order declare that as respects the whole or any part of any such union the provisions of this Part and Parts VII and VIII of this Act except such as may be specified in the order shall not come into operation until the first day of April, 1935; and where such an order is made, then, as respects the poor law union or part thereof to which the order relates and subject to any exceptions contained in the order—

(*a*) the said first day of April shall be the appointed day for the purposes of this Part and Parts VII and VIII of this Act;

(*b*) the Poor Law Act, 1927, and any other enactment relating to the relief of the poor, shall, until the said first day of April, remain in full force and effect;

(*c*) the administrative scheme shall be prepared and submitted to the Minister between the thirty-first day of March and the thirty-first day of October, 1934.

(3) An order made under this section—

(*a*) may provide for the continuance in office till the said first day of April of the persons who are appointed guardians at the date of the order or of any persons who may from time to time be appointed in their place;

(*b*) may provide for making such adaptations in the provisions of this Act relating to grants, expenses, the transfer of property and liabilities, and the transfer, superannuation and compensation of officers, as may be necessary and may provide for applying to the appointed guardians with the necessary adaptations the provisions of this Act relating to the mitigation of the liability of councils for temporary loans;

(*c*) may authorise the appointed guardians to make arrangements with the council of any county, county borough or district for the provision by that council of any assistance which could be provided, either by the guardians or by the council;

(*d*) may provide that for the purposes of the provisions of this Part of this Act relating to combinations of councils for special purposes the appointed guardians shall be treated as if they were the council of a county or county borough.

(4) An order under this section shall be laid before Parliament as soon as may be after it is made.

Note.

DEFAULTING GUARDIANS.—*The Boards of Guardians* (*Default*) *Act*, 1926,[1] *enabled the Minister of Health, if of opinion that a board "have ceased, or are acting in such a manner as will render them unable, to discharge all or any of the functions exercisable by the board," to make an order appointing "such person or persons, as he may think fit* (*whether qualified or not to be guardians for the union*), *to constitute the board in substitution for the then existing members of the board* (*who shall on the making of the order vacate their office*) *for such period, not exceeding twelve months, as may be specified in the order." The Poor Law Act*, 1927,[2] *repealed the whole of the Act of* 1926 *and re-enacted the above provision and the remainder of the Act in sect.* 220,[3] *which has now been repealed by sect.* 137 *and Sched. XII, Part I, of the present Act. As to "temporary loans," see sect.* 114 *of the present Act. As to "combinations," see sect.* 3.

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(1) 16 & 17 Geo. V, c. 20.

(2) 17 & 18 Geo. V, c. 14, s. 245, Sched. XI.

(3) *Ibid.*, s. 220. See "Davey's Poor Law Statutes," 1928 Edition, at p. 256.

PART II.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES.

SECT. 21. [*Transfer of functions under Registration Acts.*]

(1) On the appointed day the functions of boards of guardians under the Registration Acts in relation to a registration district and to any sub-districts comprised therein shall—

(*a*) if the registration district is wholly comprised within one county or county borough, be transferred to the council of that county or county borough;

(*b*) if the registration district is not wholly comprised within one county or county borough, be transferred to the council of the county or county borough which is estimated by the Registrar-General to contain on the first day of January preceding the appointed day the larger or largest part of the population of the registration district;

and the functions so transferred are in this Part of this Act referred to as "transferred functions."

(2) Until such schemes as are hereinafter mentioned are made, nothing in this Act shall affect the area of any existing registration district or sub-district, without prejudice, however, to the exercise of the powers contained in the Registration Acts as to the alteration thereof:

Provided that, where as respects the part of a registration district comprised in a county or county borough the transferred functions in relation thereto are exercised by a council other than the council of that county or county borough, and in pursuance of such powers of alteration as aforesaid an order is made whereby that part is constituted a separate registration district, or is added to a registration district comprised in that county or county borough, the order shall provide for transferring to the council of that county or county borough the transferred functions in relation to that part of the registration district and to any sub-districts comprised in that part.

Note.

REGISTRATION ACTS.—*For a list of the Births and Deaths Registration Acts and the Marriage Acts, see the Note to sect.* 28.

For "special adaptations" of these Acts, see Sched. X (6), (7) *and, as to London,* (24) (*a*), *of the present Act. For a summary of the present Part, see the Introduction.*[1] *For books on this subject, see those mentioned below.*[2]

SECT. 22.—[*Conversion of registration officers into salaried officers.*]

(1) On a vacancy occurring on or after the appointed day in the office of a registration officer, the office shall become a salaried office.[3]

(2) On application for the purpose being made after the appointed day to the responsible council by an existing registration officer appointed before that day, the office which he holds shall, as from such date (not later than the beginning of the next financial year) as may be fixed by the council become a salaried office.

(3) Where the office of a registration officer becomes a salaried office—

(*a*) the officer holding the office shall be entitled to receive from the responsible council such salary or remuneration and office and other allowances as may be fixed, and shall hold office on such conditions as may be determined, under this section;

(*b*) every such officer shall, at such times and in such manner as may be prescribed, account to the Registrar-General for all fees and allowances received by or payable to him in respect of the execution of his duties under the Registration Acts, and upon the direction of the Registrar-General shall pay to the responsible council such sum as the Registrar-General may certify to be due to the council in respect of such fees and allowances;

(*c*) the fees payable under sections 29 and 34 of the Births and Deaths Registration Act, 1836, as amended by any subsequent enactment shall cease to be payable in respect of the office.

(4) Subject to the approval of the Registrar-General, the council of any county or county borough may, as respects the

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(1) *Ante*, p. 4.

(2) Davey's "Registration Acts," 1899 Edition; "Laws of England," vol. xxiv, pp. 435–460, and Supplement.

(3) By s. 134, "registration officer" means, for the purposes of Part II and Part VII of this Act, any superintendent registrar and registrar of births and deaths.

salaried officers for whom the council are the responsible council, determine and from time to time vary—

(*a*) the salary or remuneration to be attached to any salaried office, and the allowances (if any) to be paid for travelling, the provision of office accommodation, and other expenses;

(*b*) the conditions on which any salaried office is to be held, including a requirement that an officer shall give such security as may be considered necessary to guard against any malfeasance or misappropriation of fees.

(5) In this and the next following section "the responsible council" means, as respects any registration officer, the council of the county or county borough by whom the transferred functions in relation to the registration district or sub-district for which the officer acts are discharged.

SECT. 23. [*Power to increase statutory fees.*]

(1) It shall be lawful for the Minister by order to increase any of the fees fixed by the Registration Acts to an extent not exceeding fifty per cent., and from time to time to vary the amount of the increase, subject to such limitation as aforesaid.

(2) Where such an order has been made, it shall be the duty of every officer who is not a salaried officer, at such times and in such manner as may be prescribed, to account to the Registrar-General for, and pay to the responsible council, so much of the fees received by or payable to him as the Registrar-General may certify to represent the increase effected by the order, subject to such deduction as the Registrar-General may allow as remuneration to him for the trouble and expense of collecting and accounting for such increased amounts.

(3) An order under this section shall be laid before Parliament as soon as may be after it is made.

SECT. 24. [*Schemes for the administration of Registration Acts in counties and county boroughs.*]

(1) Before the first day of April, 1932, or such later date as the Minister may allow, it shall be the duty of the council of every county and county borough to prepare and submit to the Minister a scheme for—

(*a*) the division into registration districts and sub-districts for the purposes of the Registration Acts of the whole of the county or county borough, including any portion of the county or county borough forming part of a registration district the transferred functions in relation to which are at the time of the making of the scheme discharged by the council of some other county or county borough;

(*b*) determining the number of superintendent registrars, registrars of births and deaths, and registrars of marriages, and other officers required for the purposes of the Registration Acts within the county or county borough;

(*c*) determining the location of offices and stations in the various registration districts and sub-districts;

(*d*) conferring and imposing on registrars of births and deaths all or any of the functions of registrars of marriages;

(*e*) providing, where two or more officers are appointed to act for a single registration district or sub-district, for the distribution between them of the registration functions to be discharged within the registration district or sub-district; so, however, that such distribution shall not render any such officer disqualified from acting at any time or at any place in the registration district or sub-district as the case may be;

(*f*) fixing (subject to such power of revision as may be provided by the scheme) the salary and other remuneration (if any) to be attached to each office, and the allowances (if any) to be paid for travelling, the provision of office accommodation and other expenses;

(*g*) fixing (subject as aforesaid) the conditions on which an office is to be held, so, however, that nothing in the scheme shall affect the power of the Registrar-General to remove from office an officer in any case in which the Registrar-General is satisfied that the officer has been guilty of serious default in the performance of the duties imposed on him by the Registration Acts or any regulations made thereunder;

(*h*) applying with the necessary modifications and adaptations any of the provisions of this Act relating to the transfer, superannuation and compensation of officers.

(2) Every scheme under this section shall provide for conferring on the clerk of the county council or the town clerk of the

county borough such general powers of supervising the administration within the county or county borough of the provisions of the Registration Acts as may be specified in the scheme, and in particular powers with respect to—

(*a*) the fixing of the hours of attendance of officers;

(*b*) the distribution of business between officers;

(*c*) the transfer of officers from one registration district or sub-district to another;

and section 5 of the Births and Deaths Registration Act, 1836, shall have effect as if amongst the officers with respect to whose duties under the Registration Acts regulations may be made under that section there were included clerks of county councils, town clerks, and such other officers as may be appointed under the scheme.

(3) Every scheme under this section shall fix the date or dates on which the scheme is to come into operation and may fix different dates for different provisions of the scheme or for different areas, and the dates so fixed may be made dependent on the happening of specified events.

(4) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister and the Minister, after considering any representations with respect to the scheme which may be submitted to him by any officer affected, may approve the scheme with or without modifications.

(5) If a council fail to submit to the Minister a scheme under this section within the time mentioned in this section, the Registrar-General may, after consultation with the council, make a scheme for the purpose, and any scheme so made, if approved by the Minister, shall have effect as if it were a scheme submitted by the council and approved by the Minister.

(6) Where a scheme has been made and approved under this section, the Registration Acts shall have effect subject thereto.

Note.

REGULATIONS AS TO OFFICERS.—*By sect.* 5 *of the Act of* 1836,[1] *the Minister of Health, or the Registrar-General with the approbation of*

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(1) 6 & 7 Wm. IV, c. 86, s. 5.

the Minister, "from time to time may make regulations for the management of the said register office, and for the duties of the Registrar-General, clerks, officers, and servants of the said office, and of the registrars, deputy registrars, and superintendent registrars hereinafter mentioned, in the execution of this Act, so that they be not contrary to the provisions herein contained ; and the regulations so made and approved shall be binding on the said Registrar-General, clerks, officers, and servants, and on the registrars, deputy registrars, and superintendent registrars."

SCHEMES.—*As to schemes under the present Act generally, see sect.* 131.

SECT. 25. [*Salary of Registrar-General.*]

The salary of the Registrar-General shall be such as may be determined by the Minister with the approval of the Treasury.

SECT. 26. [*Amendment of law as to method of giving information of birth or death.*]

(1) Any person required by the Registration Acts to give information concerning a birth may, within three months from the date of the birth, give the information by making and signing in the presence of and delivering to such officer as may be prescribed a declaration in writing of the particulars required to be registered concerning the birth.[1]

(2) The officer in whose presence the declaration is so made shall send the declaration to the registration officer whose duty it is to make the entry in the register, who shall in the prescribed manner enter the birth in the register.

(3) An entry so made shall be deemed for the purposes of the Registration Acts to have been signed by the person who signed the declaration, and a person making a declaration in pursuance of this section shall be deemed to comply with the provisions of the Registration Acts as to the giving of information concerning a birth, and with any requisition of the registration officer made under the Registration Acts to attend and give information concerning the birth.

(4) Section 6 of the Births and Deaths Registration Act, 1874, shall cease to have effect :[2]

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(1) For the Notification of Births Acts, 1907 (7 Edw. VII, c. 40) and 1915 (5 & 6 Geo. V, c. 64), see "Glen's Public Health," 1925 Edition, at pp. 2206–2208.

(2) 37 & 38 Vict. c. 88, s. 6.

Provided that the fee fixed by that Act for the purposes of that section shall be deemed to be the fee fixed by the Registration Acts for the purposes of this section and shall be subject to be increased under this Act accordingly.

(5) The Minister or the Registrar-General with the consent of the Minister may by regulations extend this section subject to the necessary modifications to the registration of deaths and still births.

SECT. 27. [*Application to London.*]

This Part of this Act shall apply to the county of London subject to the following modifications—

(*a*) the functions of boards of guardians under the Registration Acts shall be transferred to the common council of the City of London and to the councils of the several metropolitan boroughs and not to the London County Council;

(*b*) references to counties and county boroughs and the councils thereof shall be construed as references to the City of London and metropolitan boroughs and to the common council and the councils of metropolitan boroughs;

(*c*) references to clerks of county councils and town clerks shall be construed as references to the town clerks of the City of London and metropolitan boroughs.

SECT. 28. [*Construction and citation.*]

(1) The Births and Deaths Registration Act, 1926, shall be construed as one with the Births and Deaths Registration Acts, 1836 to 1901, and this Part of this Act, so far as it relates to the registration of births and deaths, shall be construed as one with the Births and Deaths Registration Acts, 1836 to 1926, and, so far as it relates to marriages shall be construed as one with the Marriage Acts, 1811 to 1898, and accordingly in this Part of this Act the expression "prescribed" shall mean prescribed by regulations made by the Minister, or by the Registrar-General with the approval of the Minister, under the Registration Acts.

(2) The Births and Deaths Registration Acts, 1836 to 1926, and this Part of this Act may be cited together as the Births and Deaths Registration Acts, 1836 to 1929, and the Marriage Acts, 1811 to 1898, and this Part of this Act may be cited together as the Marriage Acts, 1811 to 1929.

Note.

REGISTRATION ACTS.—*Sect.* 134 *defines "Registration Acts" as meaning the Births and Deaths Registration Acts,* 1836 *to* 1926, *and the Marriage Acts,* 1811 *to* 1898.

The following are the dates of the Births and Deaths Registration Acts : 1836,[1] 1837,[2] 1858,[3] 1874,[4] 1901,[5] *and* 1926.[6] *The General Register Office Act,* 1852,[7] *amended the Act of* 1836, *but is not in the group given in the Short Titles Act,* 1896.

The following are the dates of the Marriage Acts :—1811,[8] 1823,[9] 1824,[10] 1830,[11] 1835,[12] 1836,[13] *the above Act of* 1837,[2] 1840,[14] 1856,[15] 1860 (*two*),[16] 1872,[17] 1884,[18] 1886 (*two*),[19] *and* 1898.[20]

For "adaptations" of these Acts, see Sched. X (6), (7) *and* (24).

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(1) 6 & 7 Wm. IV, c. 86.
(2) 7 Wm. IV & 1 Vict. c. 22.
(3) 21 & 22 Vict. c. 25.
(4) 37 & 38 Vict. c. 88.
(5) 1 Edw. VII, c. 26. Repealed by s. 137 of present Act, see Note thereto.
(6) 16 & 17 Geo. V, c. 48.
(7) 15 & 16 Vict. c. 25.
(8) 51 Geo. III, c. 37.
(9) 4 Geo. IV, c. 76.
(10) 5 Geo. IV, c. 32.
(11) 11 Geo. IV & 1 Wm. IV, c. 18.
(12) 5 & 6 Wm. IV, c. 54.
(13) 6 & 7 Wm. IV, c. 85.
(14) 3 & 4 Vict. c. 72.
(15) 19 & 20 Vict. c. 119.
(16) 23 & 24 Vict. cc. 18, 24.
(17) 35 & 36 Vict. c. 10.
(18) 47 & 48 Vict. c. 20.
(19) 49 & 50 Vict. cc. 3, 14.
(20) 61 & 62 Vict. c. 58.

PART III.

ROADS AND TOWN PLANNING.

Roads.

SECT. 29. [*County Roads.*]

(1) The council of every county shall be the highway authority as respects every road in the county which at the appointed day is a main road, or which would, apart from this section, at any time thereafter have become a main road, and every such road and every other road as respects which a county council become by virtue of this Part of this Act the highway authority, shall be termed a county road, and all enactments relating to main roads shall as from the appointed day have effect as if for references therein to main roads there were substituted references to county roads.

(2) The council of every county shall, in relation to county roads in the county (not being roads with respect to which an urban district council have claimed or are deemed to have claimed to exercise the functions of maintenance and repair), have the like functions as with respect to main roads and all roads in relation to which they have those functions and the materials thereof and all drains belonging thereto shall vest in the county council, and where any other drain or any sewer is used for any purpose in connection with the drainage of any such road, the county council shall continue to have the right of using the drain or sewer for such purpose.

(3) If any difference arises between the county council and any district council as respects the council in whom a drain is vested, or as to the use of any drain or sewer, the difference shall, if either council so require, be determined by the Minister.

(4) As from the appointed day, the council of every county shall exercise the functions of maintenance, repair and improvement of, or other dealing with, every bridge in the county repairable by the inhabitants at large which carries a county road, and section 119 of the Municipal Corporations Act, 1882 (which relates to the maintenance of borough bridges),[1] shall cease to have effect as respects any bridge which carries a county road, and notwithstanding anything in subsection (2) of section 35 of

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(1) 45 & 46 Vict. c. 50, s. 119.

the Local Government Act, 1888,[1] no borough shall be exempt from contributing towards the costs incurred by a county council for the purpose of the maintenance, repair and improvement of, or other dealing with, bridges.

Note.

MAIN ROADS.—*For a summary of this Part of the Act, see the Introduction.*[2] *The appointed day is April* 1, 1930—*see sect.* 134.

The present section makes "county roads" of three kinds of roads, namely, (a) *roads in fact main roads on April* 1, 1930, (b) *roads which thereafter become main roads otherwise than under the present section, and* (c) *roads made county roads by the present section.*

As to (a), *roads are now "main roads" if either* (*i*) *they were "turnpike roads" on December* 31, 1870, *and ceased to be turnpike roads after that date, and have not since been "dismained"; or* (*ii*) *they were declared main roads by quarter sessions, when they were the maining authority, or, since they ceased to be the maining authority, by the county council, and have not since been dismained; or* (*iii*) *they were constructed by the county council with the assistance of an advance from the Ministry of Transport under the Development and Road Improvement Funds Act,* 1909.[3]

As to (b), *roads declared to be county roads by county councils after April* 1, 1930, *will be of this kind.*

As to (c), *roads made county roads by the present section are:* (*i*) *all roads which were vested in urban district councils and either were "classified roads" on April* 1, 1930 (*see sect.* 31 (1), *and the definition of "classified road" in sect.* 134), *or are classified after that date* (*see sect.* 31 (2)); *and* (*ii*) *all roads in rural districts which were on April* 1, 1930, *repairable by the district council* (*see sect.* 30 (1), *and the definition of "road" in sect.* 134).

To be a "county road" within either (a) *or* (b), *a way must be a "carriageway," that is to say, a "road" in the ordinary sense of a way for vehicular traffic, because no bridleway or footway has ever become a main road. But, to be a "county road" within* (c), *a way may be either a carriageway, bridleway, or footway, because sect.* 134 *defines the expression "road" as meaning "a highway repairable by the inhabitants at large," and many bridleways and footways are so repairable. A way may have become so repairable either because*

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(1) 51 & 52 Vict. c. 41, s. 35 (2).

(2) *Ante*, pp. 4–6.

(3) See ss 8, 10 (2), *post*, pp. 333, 335.

"dedicated" before March 20, 1836,[1] *or because "adopted" by the highway authority since.*[2] *On that date the Highway Act*, 1835, *came into operation,*[3] *and, by sect.* 23,[4] *prevented the application of the common law rule that, by mere dedication to the public, a way of any kind automatically became repairable at the public expense.*

As to the "maining" of roads, see sect. 37 *and Note; as to the "dismaining" of roads, see sect.* 31 *and Note; as to the powers of urban authorities to "retain" county roads other than county bridges, see sect.* 32 *and Note; as to "county bridges," see the Note to sect.* 32*; and, as to roads repairable by private persons, see sect.* 38 *and Note.*

MEANING OF "VEST."—*The effect of the cases in which the meaning of the expression "vest," in enactments similar to the present section, has been discussed appears to be that the materials of which the roadway is constructed, and a depth of soil below the materials sufficient to enable the highway authority to do to the street what it is necessary to do to it* qua *street, belongs to the authority.*[5] *In one case,*[6] *a depth of eighteen inches below the surface was suggested as reasonable.*

The herbage on strips of grass bordering the metalled part of a main road does not vest in the county council.[7]

Two kinds of drains are referred to in subsect. (2), *namely* (1) *drains "belonging to" county roads, which are to "vest" in the county council; and* (2) *drains or sewers "used for any purpose in connection with the drainage" of county roads, which are not to vest but are to continue to be usable for that purpose. The first kind is no doubt intended to be repairable by the county council, but not the second. Probably the first kind is meant to be confined to a drain which is used for no purpose other than the drainage of the road, and the second to a drain which in fact takes drainage from the road but*

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(1) In *Folkestone Cpn.* v. *Brockman* (L.R. 1914 A.C. 338; 83 L.J.K.B. 745; 110 L.T. 824; 78 J.P. 273; 12 L.G.R. 334), the question was whether a road was repairable by the inhabitants at large by reason of dedication as a footway before March 20, 1836. See also the cases on this subject collected in the Note to P.H. Act, 1875, s. 149, in "Glen's Public Health," 1925 Edition, at pp. 285–311. For more recent cases in which, from evidence of uninterrupted public user throughout living memory, dedication before that date was presumed, see *Attorney-General* v. *Tasker* (1928, Ch. D.), 92 J.P. 157; and *Attorney-General* v. *Woolwich B.C.* (March 5, 1929) not yet reported.

(2) In *Cababé* v. *Walton-on-Thames U.D.C.* (L.R. 1914 A.C. 102; 83 L.J.K.B. 243; 110 L.T. 674; 78 J.P. 129; 12 L.G.R. 104), the question was whether such adoption should be presumed from repairs. On this see also *Harrow U.D.C.* v. *Wreathall* (1926, C.A.), 90 J.P. Journal 486; "Macmorran's Local Government," 1926, at pp. 431, 432.

(3) 5 & 6 Will. IV, c. 50, s. 119.

(4) *Ibid.* s. 23. See "Pratt on Highways," 1923 Edition, at pp. 190–198.

(5) *Coverdale* v. *Charlton* (1878), L.R. 4 Q.B.D. 104; 48 L.J. Q.B. 128; 40 L.T. 88; 43 J.P. 268; *Tunbridge Wells Cpn.* v. *Baird*, L.R. 1896 A.C. 434; 65 L.J.Q.B. 451; 74 L.T. 355; 60 J.P. 788; *Grant* v. *Derwent*, L.R. 1929, 1 Ch. 390; 27 L.G.R. 179.

(6) *Schweder* v. *Worthing Gas Co.*, L.R. 1913, 1 Ch. 118; 82 L.J. Ch. 71; 107 L.T. 844; 77 J.P. 41; 11 L G.R. 17.

(7) *Curtis* v. *Kesteven C.C.* (1890), L.R. 45 Ch. D. 504; 60 L.J. Ch. 103; 63 L.T. 543.

is also used for other kinds of drainage. The provision that disputes as to vesting are to be determined by the Minister is new, and will remove a fruitful source of litigation, except that the Minister has not been given power to settle a dispute on this subject between a local authority and a private person.

It may be noted that Warrington, J., held that a drain, constructed for the purpose of taking the surface drainage of a highway, which afterwards became a main road, could be properly described as appurtenant to, or an appendage of, the road, and was therefore a drain "belonging to" it within the meaning of sect. 11 (6) *of the Local Government Act,* 1888, *so as to be vested in the county council, and he further held that it had not become divested out of them, or vested in the rural district council as a "sewer," by reason of a drain from the cellars of four houses and a privy having been connected with it without the knowledge of any local authority.*[1]

SECT. 30. [*Transfer to county councils of functions with respect to highways in rural districts.*]

(1) As from the appointed day, every county council shall be the highway authority as respects such part of the county as is for the time being comprised in any rural district and as respects the highways therein, and as such shall have all such functions under the Highway Acts, 1835 to 1885, as were exercisable by rural district councils who by virtue of the Local Government Act, 1894, became successors of highway boards, and rural district councils shall cease to be highway authorities :

Provided that nothing in this section shall affect the functions of rural district councils under the Local Government Act, 1894, as respects rights of way and encroachments on roadside wastes, or any functions not being functions with respect to highways exercisable at the appointed day by rural district councils as successors to surveyors of highways or highway boards.

(2) As from the appointed day, a county council shall with respect to such part of the county as is for the time being comprised in any rural district have the functions of an urban district council or a local authority under the enactments mentioned in the first column of Parts I and II of the First Schedule to this Act, as amended by any subsequent enactment, subject however to such modifications as are mentioned in the second column of that Schedule; and those enactments shall apply accordingly.

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(1) 51 & 52 Vict. c. 41, s. 11 (6); *Rickarby* v. *New Forest R.D.C.* (1910), 74 J.P. 441; 8 L.G.R. 893; 26 T.L.R. 586.

(3) Functions under section 150 of the Public Health Act, 1875, and under the enactments mentioned in the first column of Part I of the first Schedule to this Act shall as from the appointed day cease to be exercisable by rural district councils, and any rural district council who for the time being are invested with functions under any of the enactments mentioned in the first column of Part II of that Schedule shall not be entitled to exercise those functions except with the consent of the county council.

(4) Nothing in this section shall affect the right of any rural district council having such power to exercise the power of making byelaws under section 157 of the Public Health Act, 1875, with respect to the level, width and construction of new streets :

Provided that a rural district council before making any such byelaws shall consult with the county council, and if a rural district council do not within six months after a notice from the county council requiring them to do so exercise the power of making such byelaws, the county council may themselves exercise the power.

Note.

HIGHWAY FUNCTIONS OF RURAL DISTRICT COUNCILS.—*By sect.* 134, *the expression "functions" includes "powers and duties."*

The highway functions of rural district councils which are transferred to county councils by the present section are : (a) *those exercisable by rural district councils under the Highway Acts,* 1835 *to* 1885,[1] *by virtue of their succession to "highway boards"; and* (b) *those exercisable by such councils under the enactments enumerated in and modified by Sched. I, Parts I and II;* [2] *those which are not so transferred are :* (c) *those exercisable under sect.* 26 *of the Local Government Act,* 1894,[3] *and relating to the protection of public rights of way, and the prevention of encroachments on roadside wastes ; and* (d) *those exercisable under sect.* 157 *of the Public Health Act,* 1875,[4] *by virtue of orders conferring urban powers in relation to byelaws as to level width and construction of new streets. Those still exercisable by rural district councils, with the consent of the county council, relate to* (e) *functions under the enactments*

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[1] Namely, 1835 (5 & 6 Will. IV, c. 50), 1862 (25 & 26 Vict. c. 61), 1863 (26 & 27 Vict. c. 61), 1864 (27 & 28 Vict. c. 101), 1878 (41 & 42 Vict. c. 77), 1882 (45 & 46 Vict. c. 27), and 1885 (48 & 49 Vict. c. 13), see Short Titles Act, 1896. As to these functions, see Note on functions of class (a), *post*, p. 79.

[2] See Note on functions of class (b), *post*, p. 80.

[3] 56 & 57 Vict. c. 73, s. 26, see Appendix, *post*, p. 309.

[4] 38 & 39 Vict. c. 55, s. 157, see Appendix, *post*, p. 277.

enumerated in Sched. I, Part II,[1] *in respect of which urban powers have already or are in the future obtained.*

As to (a), *only those functions of rural district councils that were exercisable by them as successors of highway boards are transferred, and in many places there were no such boards. There were two kinds of "highway boards," namely, parish highway boards formed under the Highway Act*, 1835, *and those formed for highway districts under the Highway Acts*, 1862 *and* 1864. *The powers, duties and liabilities of these boards were transferred to rural district councils by sect.* 25 (1) *of the Local Government Act*, 1894.[2] *The parish highway boards were formed under sects.* 18 *and* 19 *of the Highway* Act, 1835.[3] *In a parish with a population of more than* 5,000, *the vestry instead of electing a single surveyor might elect several persons, not exceeding twenty or less than five, to form such a board and collectively serve the office of surveyor of highways for the parish for the ensuing year. Such a board did not form a body corporate like a highway board constituted under the Act of* 1862, *but were authorised to appoint a clerk, treasurer, assistant surveyor, and one or more rate collectors, and to rent, or with the consent of the vestry purchase, land for a depot. The other highway boards were formed under sects.* 5 *to* 10 *of the Highway Act*, 1862,[4] *as amended by sects.* 4 *to* 8 *and* 11 *to* 14 *of the Highway Act*, 1864.[5] *They consisted partly of ex-officio members, namely, certain county justices, and partly of "waywardens." The number of waywardens was fixed by the order forming the district, and they were elected by the vestries of the several highway parishes, and appointed by the justices, in the same manner as surveyors of highways were elected and appointed. The board was a body corporate, and its meetings and proceedings were regulated by rules prescribed at first by the Act of* 1862, *and subsequently by the Act of* 1864. *The Highways and Locomotives Amendment Act*, 1878,[6] *directed that the county authority (then quarter sessions) should have regard, when they formed or altered a highway district, to the boundaries of the rural sanitary districts in their county, in order that the highway districts should as far as practicable be coterminous with or contained within rural sanitary districts. And it authorised any rural sanitary authority, whose district was coterminous with a highway district, to apply to the county authority for an order enabling them to exercise the powers of a highway board. As soon as*

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(1) See Note on functions of class (e), *post*, p. 81.

(2) 56 & 57 Vict. c. 73, s. 25 (1), see Appendix, *post*, p. 308.

(3) 5 & 6 Will. IV, c. 50, ss. 18, 19.

(4) 25 & 26 Vict. c. 61, ss. 5–10.

(5) 27 & 28 Vict. c. 101, ss. 4–8, 11–14.

(6) 41 & 42 Vict. c. 77, ss. 3–5.

such an order came into force the highway board (if any) for the district was abolished, and all its property debts and liabilities, and all the powers rights and duties of a highway board or surveyor of highways (except the power to issue precepts in the manner provided by the Highway Acts, and the power to make and levy highway rates) were transferred to the rural sanitary authority ; any property so transferred being held by that authority in trust for the parishes for the benefit of which it had previously been held. These highway boards had all the powers, rights, duties, liabilities, capacities, and incapacities, which would otherwise have vested in or attached to the surveyors of highways of the several parishes in their district (except the power of making, assessing, and levying highway rates), and all the property, debts, and liabilities of the existing surveyors of highways of those parishes were transferred to them upon their constitution, and they were to be deemed to be the successors in office of such surveyors ; but property thus transferred was to be held by them in trust for the parish to which it had previously belonged.[1] *County councils to whom the powers of highway boards have been transferred by the present section have, therefore, no power to make, assess, or levy rates in the rural districts. Their expenses must be defrayed out of the county rates. Apparently also any highway depots, etc., in rural districts, must be held by the county council in trust for the rural district only, but see sect.* 117.

As to (b), *the enactments enumerated in Sched. I, Part I, and referred to in the delegation provision in sect.* 35 (2) (*and set out, with the modifications, in the Appendix on the pages indicated in the footnotes*) *are :—Public Health Act*, 1875, *ss.* 146,[2] 147,[3] 148,[4] 154,[5] *and* 176.[6] *Private Street Works Act*, 1892,.[7] *Local Government Act*, 1894, *s.* 25 (2).[8] *Public Health Acts Amendment Act*, 1907, *ss.* 18,[9] 19,[10] 20,[11] *and* 29.[12]. *Public Health Act*, 1925, *ss.* 21,[13] 22,[14] 25,[15] 27,[16] 28,[17] 30,[18] 31,[19] 32,[20] *and* 35.[21] *For the enactments enumerated in Sched. I, Part II, see the Note on functions of class* (e) *below. The above functions are exercisable by a county council in a rural district whether the district council have or have not obtained the necessary order giving the functions to them. It it also to be observed that county councils are not given power to act*

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(1) 25 & 26 Vict. c. 61, s. 17 ; 27 & 28 Vict. c. 101, ss. 33–35.
(2) *Post*, p. 273.
(3) *Post*, p. 274.
(4) *Post*, p. 274.
(5) *Post*, p. 275.
(6) *Post*, p. 279.
(7) *Post*, p. 299.
(8) *Post*, p. 308.
(9) *Post*, p. 315.
(10) *Post*, p. 315.
(11) *Post*, p. 316.
(12) *Post*, p. 317.
(13) *Post*, p. 350.
(14) *Post*. p. 350.
(15) *Post*, p. 351.
(16) *Post*, p. 351.
(17) *Post*, p. 354.
(18) *Post*, p. 354.
(19) *Post* p. 355.
(20) *Post*, p. 356.
(21) *Post*, p. 360.

under section 150 *of the Public Health Act,* 1875, *whether the powers of that section have been conferred on a rural district council or not. The code laid down in the Private Street Works Act,* 1892, *is henceforth the only one to be utilised in rural districts.*

As to (e), *the enactments enumerated, without modifications, in Sched. I, Part II (and set out in the Appendix on the pages indicated in the footnotes) are :—Public Health Acts Amendment Act,* 1890, *ss.* 39,[1] 40,[2] *and* 43.[3] *Public Health Acts Amendment Act,* 1907, *s.* 47.[4]

There is the following "Note" at the end of Sched. I :—"A county council shall be entitled to exercise any functions under the enactments mentioned in this Schedule without the necessity of any resolution of adoption, or of any order or declaration of any Government Department ; but, subject to the modifications contained in this Schedule, shall exercise the functions subject to the like right of appeal and other conditions as apply in the case of a district council. The modifications of enactments contained in this Schedule shall not apply to district councils (except where a district council is in pursuance of Part III of this Act exercising the functions of a county council as agents for that council)."

Sects. 13 *to* 52 *of the Act of* 1890 *are not in force until adopted by a resolution of the council,*[5] *sects.* 15 *to* 95 *of the Act of* 1907 *are not in force until put in force by an order of the Minister of Health or the Secretary of State,*[6] *and sects.* 13 *to* 55 *of the Act of* 1925 *are "adoptive."* [7]

The "rights of appeal" referred to in the above Note are conferred by the following enactments which will be found in the Appendix on the pages indicated in the footnotes :—Public Health Act, 1875, *sect.* 268,[8] *under which the appeal lies to the Minister of Health ; Public Health Acts Amendment Act,* 1890, *sect.* 7,[9] *under which the appeal lies to quarter sessions except in cases where there is an appeal to the Minister of Health under sect.* 268 *; Public Health Acts Amendment Act,* 1907, *sect.* 7,[10] *under which there is a similar right of appeal to quarter sessions or to the Minister ; Public Health Act,* 1925, *sect.* 7 *and Sched. IV*.[11] *which apply sect.* 7 *of the Act of* 1907 *; and sect.* 8 *of the same Act,*[12] *under which an appeal lies to petty sessions.*

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(1) *Post*, p. 298. (2) *Post*, p. 298. (3) *Post*, p. 298.

(4) *Post*, p. 317. (5) See 54 & 55 Vict. c. 59, s. 2 (2).

(6) See 7 Edw. VII, c. 53, s. 2 (2).

(7) See 15 & 16 Geo. V, c. 71, ss. 2 (2), 3–5. (8) *Post*, p. 286.

(9) *Post*, p. 297. (10) *Post*, p. 314. (11) *Post*, p. 349.

(12) *Post*, p. 349.

The provisions of the present Act under which district councils may act as agents of county councils are contained in sects. 35 *and* 36.

County councils are required to consult with rural district councils if they "sewer" a private street,[1] *and rural district councils are required to consult with the county council if they make byelaws as to new streets, and county councils may make such byelaws if the rural district council fails to do so after notice.*[2]

As to what is to happen when a rural area becomes urban after April 1, 1930, *see subsect.* (6) *of sect.* 31, *which section deals with roads in urban districts.*

SECT. 31. [*Transfer of classified roads in urban districts to county council.*]

(1) As from the appointed day, the county council shall be the highway authority as respects all classified roads which, immediately before the appointed day, were vested in councils of urban districts within the county.

(2) When after the appointed day any road vested in an urban district council becomes a classified road, the county council shall thereupon become the highway authority as respects that road.

(3) It shall not be lawful for the Minister of Transport on or after the appointed day to make an order declaring that a road which is for the time being a classified road has ceased to be a county road.

(4) Section 4 of the Highways and Bridges Act, 1891, shall as from the appointed day cease to have effect so far as it provides that no order declaring that a county road within a municipal borough has ceased to be a county road and has become an ordinary road shall be made without the consent of the council of the borough having been first obtained; but before any such order is made by the Minister of Transport he shall consider any representation which the council of the borough may make with reference thereto and shall, if so requested by the council of the borough, hold a local inquiry.

(5) As from the appointed day, a county council shall, with respect to county roads, and roads which, when constructed, are intended to become county roads (not being roads with

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(1) See modification of s. 6 (2) of Act of 1892, *post*, p. 300.

(2) See proviso to subsect. (4) of the present section.

respect to which an urban district council have claimed or are deemed to have claimed to exercise the functions of maintenance and repair), have within an urban district in the county the functions of an urban district council or a local authority under the enactments mentioned in the first column of Parts III, IV and V of the First Schedule to this Act, as amended by any subsequent enactment, subject, however, to such modifications as are mentioned in the second column of that Schedule; and those enactments shall apply accordingly.

As respects such roads as aforesaid, functions under the enactments mentioned in the first column of Part III of the said Schedule shall, as from the appointed day, cease to be exercisable by an urban district council, and functions under the enactments mentioned in the first column of Parts IV and V of the said Schedule shall, as from the appointed day, be exercisable by the urban district council as well as by the county council; but as respects the functions mentioned in the first column of Part V of that Schedule, only with the consent of the county council.

(6) Where after the appointed day any area, being or forming part of a rural district, is by a provisional or other order constituted an urban district,the order may provide that any unclassified roads within that area shall continue to be county roads and where the order contains such a provision as respects any roads the order may provide for contributions being made by the urban district council to the county council towards the cost of the maintenance and repair of those roads of such amounts as may be agreed between the councils or, in default of agreement, determined by the Minister of Transport.

Note.

CLASSIFIED ROADS.—*Sect.* 134 *defines "classified road" as meaning "a road classified by the Minister of Transport under the Ministry of Transport Act,* 1919, *in Class I or Class II, or in any class declared by him to be not inferior to those classes for the purposes of this Act." The Ministry of Transport Act,* 1919, *transferred to the Minister of Transport the functions of "any Government Department in relation to . . . roads, bridges, and ferries, and vehicles and traffic thereon,"*[1] *and, under sect.* 17 (2),[2] *he has put all roads into three groups, Class I, Class II, and unclassified. In*

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[1] 9 & 10 Geo. V, c. 50, s. 2 (1) (e).

[2] *Ibid.*, s. 17 (2).

the Minister's Circular of February 28, 1921,[1] *he refers to the classification in relation to the marking of direction posts, and in February,* 1923,[2] *he issued a Circular on "Classification of Roads and Route Numbers," and subsequently the other Circulars referred to in the footnote below.*[3]

DISMAINING ROADS.—*By sect.* 16 *of the Highways and Locotives (Amendment) Act,* 1878,[4] "*Where it appears to a county authority that any road within their county which has become a main road* [in pursuance of this Act [5]] *ought to cease to be a main road and become an ordinary highway, such authority may apply to the* [*Minister of Transport*] *for* [a provisional order] *declaring that such road has ceased to be a main road and become an ordinary highway. The* [*Minister of Transport*], *if of opinion that there is probable cause for an application under this section, shall cause the road to be inspected, and if satisfied that it . . . ought to cease to be a main road and become an ordinary highway, shall make a* [provisional order] *accordingly* [to be confirmed as hereinafter mentioned]. *All expenses incurred in or incidental to the making* [or confirmation] *of any order under this section shall be defrayed by the county authority applying for such order." The portion of sect.* 4 *of the Highways and Bridges Act,* 1891,[6] *left unrepealed by subsect.* (4) *of the present section provides that sect.* 16 *of the Act of* 1878 "*shall apply to any part of a main road in any county, and so much of such section as requires that any order made thereunder shall be provisional, and shall be confirmed as in the said Act mentioned, is hereby repealed." The effect of subsects.* (3) *and* (4) *of the present section upon these two enactments is that "classified roads" as above defined may not be dismained until they have become unclassified, and roads in boroughs may not be dismained until after the holding of a local inquiry if the borough council require one to be held.*

HIGHWAY FUNCTIONS OF URBAN DISTRICT COUNCILS.—*The enactments which are enumerated in Sched. I, Part III, and contain the functions of urban district councils which, unless delegated (see sect.* 36 (2)), *are to be exercised after April* 1, 1930, *by county*

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(1) 19 L.G.R. (Orders) 186 (7).

(2) 22 L.G.R. (Orders) 1.

(3) March 20, 1923, "Classification of Roads," *ibid.*, p. 2; April 23, 1923, "Road Bridge and Street Improvements," *ibid.*, p. 5; May 31, 1923, "Classification of Roads," *ibid.*, p. 6; September 12, 1923, "Grants from Road Fund," *ibid.*, p. 14; and March 4, 1924, "Expenditure on Class I and Class II Roads," *ibid.*, p. 78.

(4) 41 & 42 Vict. c. 77, s. 16, as amended by S.L.R. Act, 1894.

(5) These words are "to be omitted," see Sched. X (10) of the present Act, and are repealed by s. 137 and Sched. XII, Part III.

(6) 54 & 55 Vict. c. 63, s. 4. Further as to this Act, see the Note to s. 34.

councils only (and are set out, with the modifications, in the Appendix on the pages indicated in the footnotes) are :—Public Health Act, 1875, *sects.* 146,[1] 147,[2] 154,[3] *and* 176.[4] *Public Health Acts Amendment Act,* 1907, *sects.* 18,[5] 20,[6] *and* 29.[7] *Public Health Act,* 1925, *sects.* 25[8] *and* 27.[9]

The enactments which are enumerated (without modifications) in Sched. I, Part IV, and contain the functions of urban district councils which are to be exercised after April 1, 1930, *by both county and urban district councils (and are set out in the Appendix on the pages indicated in the footnotes), are :—Public Health Act,* 1925, *sects.* 21[10] *and* 22.[11]

The enactments which are enumerated (without modifications) in Sched. I, Part V, and contain the functions of urban district councils which are to be exercised by county councils, and also (with the consent of the county council) by urban district councils (and are set out in the Appendix on the pages indicated in the footnotes), are :— Public Health Acts Amendment Act, 1890, *sects.* 39,[12] 40,[13] *and* 43.[14] *Public Health Acts Amendment Act,* 1907, *sect.* 47.[15]

The Note to Sched. I (as to "adoption," "appeals," and "modifications"), which has already been quoted in full,[16] *applies to Parts III, IV, and V as it applies to Parts I and II.*

SECT. 32. [*Rights of certain urban district councils to maintain county roads.*]

(1) Where an urban district has a population exceeding twenty thousand, the urban district council may claim to exercise the functions of maintenance and repair of any county road within their district, and if a claim is made within the time hereinafter limited, then, as from such date as is hereinafter mentioned, the urban district council shall be entitled to exercise those functions, and the road shall vest in that council, and for the purpose of the maintenance, repair and improvement of, and other dealing with, any such road, that council shall have the same functions as if they were as respects that road the highway authority and the road were an ordinary road vested in them.

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(1) *Post,* p. 273.
(2) *Post,* p. 274.
(3) *Post,* p. 275.
(4) *Post,* p. 279.
(5) *Post,* p. 315.
(6) *Post,* p. 316.
(7) *Post,* p. 317.
(8) *Post,* p. 351.
(9) *Post,* p. 351.
(10) *Post,* p. 350.
(11) *Post,* p. 350.
(12) *Post,* p. 298.
(13) *Post,* p. 298.
(14) *Post,* p. 298.
(15) *Post,* p. 317.
(16) *Ante,* p. 81.

(2) Such claim as aforesaid must be made—

(*a*) in the case where the population of the urban district exceeds twenty thousand at the appointed day and the road is a road which will by virtue of the foregoing provisions of this Part of this Act become a county road on the appointed day, before the appointed day;[1]

(*b*) in the case where the population of the urban district is found by the Registrar-General's preliminary report on any census subsequent to the appointed day to exceed for the first time twenty thousand and the road is a county road at the date of the publication of the report, within twelve months after that date;

(*c*) in the case of any enactment adding an area to an existing urban district of which the population exceeds twenty thousand within twelve months after the date when the enactment takes effect;

(*d*) in the case of any enactment constituting a new urban district or adding an area to an existing urban district, in consequence whereof the urban district becomes an urban district of which the population exceeds twenty thousand, within twelve months after the date when the enactment takes effect.

(*e*) in the case of any road which becomes a county road after the appointed day, or after the date mentioned in any of the last three foregoing paragraphs, as the case may require, within twelve months after the date when it so becomes a county road.

(3) The date as from which the right of maintenance and repair shall be exercisable shall—

(*a*) where the claim is made before the appointed day, be the appointed day;

(*b*) in any other case be the first day of April in the year following the calendar year in which the claim is made:

Provided that as respects any county roads which—

(*a*) may be declared by the Minister of Transport to be roads towards the construction or improvement of which by the county council advances have been made

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(1) See definition of "estimated population" in s. 134.

under the Development and Road Improvement Funds Act, 1909,[1] as amended by any subsequent enactment, and to be roads the maintenance and repair of which should, having regard to the best means of promoting economy and efficiency in highway administration, remain vested in the county council; or

(*b*) being situate in a county within which at the commencement of this Act there was in force a local Act empowering urban district councils to relinquish any functions of maintenance and repair retained by them in pursuance of a claim made under section 11 (2) of the Local Government Act, 1888,[2] are roads as respects which the urban district council were not exercising the functions of maintenance and repair at the commencement of this Act;

the date as from which the right of maintenance and repair claimed under this section shall be exercisable shall be deferred until such date as the Minister of Transport may by order determine, and every such order shall be laid before Parliament as soon as may be after it is made.

(4) Any urban district council for the time being so responsible for the maintenance and repair of any county road within their district may at any time, with the consent of the county council, relinquish their functions as regards the maintenance and repair of the county road, and as from the first day of April next after the date of relinquishment the county road and the functions of maintaining and repairing it shall vest in the county council in like manner as if the urban district council had made no claim under subsection (1) of this section.

In the event of the county council withholding consent under this subsection, the urban district council may appeal to the Minister of Transport, who may make such order thereon as he thinks fit, and the order shall be binding on the county council and the urban district council.

(5) Where at the appointed day any urban district council are in pursuance of section 11 (2) of the Local Government Act, 1888,[2] exercising the functions of maintaining and repairing any main road, then—

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(1) See s. 8 in Appendix, *post*, p. 333.
(2) 51 & 52 Vict. c. 41, s. 11 (2), repealed by s. 137 and Sched. XII, Part III.

(*a*) if the population of the urban district exceeds twenty thousand at the appointed day, the council thereof shall be deemed to have duly made a claim under this section as respects the road, unless before the appointed day they give to the county council notice in writing to the contrary;

(*b*) in any other case the right of the urban district council to maintain and repair the road shall as from the appointed day determine, and the road and the functions of maintaining and repairing it shall vest in the county council.

(6) For the purposes of this section—

(*a*) the expression "road" does not include county bridges; and

(*b*) the population of an urban district shall, subject as hereinafter provided, be ascertained according to the last census for the time being:

Provided that the population of an urban district at the appointed day shall be taken to be the estimated population of that district for the year 1928.[1]

Note.

Retaining by Urban District Councils.—-*As to the "maining" of roads, see sect.* 37 *and Note. The present section takes the place of the "retaining" provisions in sect.* 11 *of the Local Government Act*, 1888,[2] *which are repealed by sect.* 137 *and Sched. XII, Part III, as from the appointed day. As to contributions by county councils to urban district councils in respect of retained county roads, see sect.* 33. *As to the maintenance by county councils of unclassified roads in urban districts by agreement, see sect.* 34. *As to the delegation by county councils to district councils of road functions, see sects.* 35 *and* 36.

County Bridges.—*The expression "county bridge" is defined by sect.* 134. *Provisions as to bridges are contained in sects.* 29 (4) *and* 38 (2), *and, for the purposes of the present section, "road" does not include a county bridge (see subsect.* 6 (*a*)). *As to the repair of county bridges, by the common law the inhabitants at large of the county were liable to repair all public bridges*

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(1) See definition of "estimated population" in s. 134.

(2) 51 & 52 Vict. c. 41, s. 11 (2). Further as to this section, see *ante*, p. 87 (2) and *post*, pp. 90 (4), 92 (1).

(that is, bridges of public utility crossing rivers or watercourses) in the county and the approaches to such bridges; except where the bridge was within a franchise, or a legal obligation on some other person or persons to repair the bridge could be proved; the liability being analogous to that of the inhabitants at large of a parish to repair the highways in such parish. The Statute of Bridges, of 1530,[1] *was founded on this common law liability; and it enacted that where it could not be proved what hundred, riding, wapentake, city, borough, town or person, nor what person certain or body politic, ought of right to repair bridges broken in the highways, such bridges, if without a city or town corporate, should be repaired by the inhabitants of the shire or riding, or if within a city or town corporate, then by the inhabitants of such city or town, or if partly in one shire, riding, city or town corporate, and partly in another, then, so far as each part was concerned, by the inhabitants of the shire, riding, city or town in which such part was situate. It also enacted that such part of the highways, as well within franchises as without, as lay next adjoining to the ends of any bridges distant from any of such ends by the space of* 300 *feet, should be dealt with in the same manner as the bridges themselves by the justices of the shire, franchise, city, or borough. The Bridges Act,* 1803, *known as Lord Ellenborough's Act,*[2] *provided that no bridge thereafter built by any private persons, bodies politic or corporate, should be deemed to be a county bridge repairable by the inhabitants of a county, unless it was erected in a substantial and commodious manner, under the direction or to the satisfaction of the county surveyor or person appointed by the justices. The Highway Act,* 1835,[3] *declared that the roads over county bridges to be built thereafter, and over the approaches, should be repairable by the parish or persons who were liable to repair the roads before the erection of such bridges, and gave the county surveyors the same powers for getting materials and preventing and removing nuisances as were given to surveyors of highways by that Act. A bridge not a county bridge, is by virtue of the definition of "highway" in the Act of* 1835,[4] *and of "street" in the Public Health Act,* 1875,[5] *part of the highway, and repairable accordingly by the district council as surveyors of highways. By the Municipal Corporations (Bridges) Act,* 1850,[6] *bridges wholly or partly within and repairable by any city or borough, to which the Municipal Corporations Act,* 1835, *applied, were to be maintained, improved, or rebuilt so far as*

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(1) 22 Hen. VIII, c. 5.

(2) 43 Geo. III, c. 59.

(3) 5 & 6 Wm. IV, c. 50, ss. 21, 22.

(4) See s. 5 in Appendix, *post*, p. 273 (1).

(5) See s. 4 in Appendix, *post*, p. 273 (1), and the *Hornsey Case* there cited.

(6) 13 & 14 Vict. c. 64; now M.C. Act, 1882 (45 & 46 Vict. c. 50), s. 119.

they were within the limits of such city or town, under the sole management and control of the council. The Highways and Locomotives (Amendment) Act, 1878[1] *amended the Act of* 1803 *by allowing quarter sessions to take over the maintenance of any bridge which had not been erected under the conditions prescribed by that Act, if the county surveyor or other person appointed for the purpose certified that it was in good repair and condition. The Local Government Act,* 1888,[2] *transferred to county councils, among other administrative functions of quarter sessions, those relating to bridges and roads repairable with bridges, making rates and borrowing money, and the appointment, removal, and determination of the salary of the county surveyor. It authorised a county council to purchase or take over by agreement and to repair and improve any bridge which was not already a county bridge, and to erect new bridges;*[3] *and it declared that every main road, inclusive of every bridge carrying such road, if repairable by the highway authority, should be maintained and repaired by the county council, who were authorised to exercise any powers vested in them for the purpose of the maintenance and repair of bridges, and further declared that the enactments relating to bridges should apply accordingly.*[4] *In a county borough the county borough councils not only retained bridges previously repairable by the borough, but also took over all bridges and their approaches, so far as they were within the borough, which had previously been repairable by the county or hundred.*[5]

As to agreements between county councils and highway authorities as to bridges, see sect. 3 *of the Highways and Bridges Act,* 1891.[6] *Advances may be made by the Minister of Transport under sect.* 8 *of the Development and Road Improvement Funds Act,* 1909,[7] *for roads, which word (by subsect.* (5) *of that section) includes "bridges, viaducts, and subways." County councils may, under sect.* 35 (1) (c) *of the present Act, delegate to district councils functions with regard to county bridges.*

SECT. 33. [*Contributions by county councils to county roads maintained by urban district councils.*]

(1) Where an urban district council are in pursuance of the last foregoing section of this Act responsible for the maintenance and

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(1) 41 & 42 Vict. c. 77, s. 21.
(2) 51 & 52 Vict. c. 41, s. 3.
(3) *Ibid.*, s. 6.
(4) *Ibid.*, s. 11 (1). For sub-sects. (7) and (9) of this section, see *post*, p. 99 (2) and (3). For unrepealed remainder of section, see Appendix, *post*, p. 287.
(5) *Ibid.*, s. 34 (2).
(6) Set out in Note to sect. 34.
(7) Set out in Appendix, *post*, p. 333.

repair of a county road within their district, the county council shall—

(*a*) make annual payments (by quarterly instalments) towards the cost of the maintenance and repair of the road and any reasonable improvement connected with the maintenance and repair thereof, of such amount as may be determined in manner hereinafter provided; and

(*b*) contribute towards the expenses of any improvement of the road, not being expenses in connection with the maintenance and repair of the road, in any such case and to such extent, if any, as, failing agreement between the urban district council and the county council, may be determined by the Minister of Transport; and the Minister of Transport in making his determination shall have regard to the extent to which the improvement is required for the purposes of through traffic and local traffic respectively, and to the extent to which the improvement is of the nature of a town improvement.[1]

(2) Every urban district council so responsible for the maintenance and repair of a county road shall, on or before the fifteenth day of December in each year, submit to the county council for their approval (which shall not be unreasonably withheld) a detailed estimate of the cost of maintenance and repair and reasonable improvement connected with the maintenance and repair of the road for the ensuing financial year, and on such estimate being so approved, either with or without modifications, the amount to be paid by the county council under the last foregoing subsection in respect of such maintenance, repair and improvement shall be the amount of that estimate, or of that estimate as amended by any supplementary estimate submitted and approved as hereinafter provided, or such less sum as may have been actually expended thereon by the urban district council during the said financial year:

Provided that in no case shall a county council be liable to make a payment towards such costs until they are satisfied by a report of their surveyor or such other person as they may appoint for the purpose that the works of maintenance, repair or improvement have been properly executed.

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(1) "Improvement" includes fixing building and improvement lines—see definition of "road" in s. 134. As to such lines, see footnote (1), *post*, p. 181.

(3) The urban district council may at any time and from time to time submit a detailed supplementary estimate for the approval of the county council, which approval shall not be unreasonably withheld.

(4) Any question whether the approval of the county council has been unreasonably withheld, or whether any works of maintenance, repair or improvement are being or have been properly executed, or as to the liability of a county council to make a payment under this section shall be determined by the Minister of Transport.

Note.

COUNTY CONTRIBUTIONS TO RETAINED ROADS.—*The present section takes the place of the contribution provisions of sect.* 11 (2) *to* (6), (8), *and* (9) *of the Local Government Act*, 1888, *which are repealed by sect.* 137 *and Sched. XII of the present Act.*[1]

Where a main road, which had been retained by an urban authority, passed through a tunnel, it was held that the county contribution must include the cost of repairing the walls and roof of the tunnel;[2] *the court following a previous decision that such contribution must include the cost of repairing a sea wall and groynes erected to protect a main road;*[3] *and distinguishing one in which a declaration that the county council was liable to repair a wall retaining the adjoining land was refused.*[4] *The contribution has also been held to include the cost of repairing and altering footways, repairing crossings, and scavenging and watering,*[5] *and removal of snow.*[6]

Other cases dealing with contributions under the repealed provisions related to fluctuating expenses,[7] *and the effect of the existence of a trust fund for highway expenses.*[8]

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(1) 51 & 52 Vict. c. 41, s. 11 (2) to (6), (8) and (9).

(2) *Reigate Cpn.* v. *Surrey C.C.*, L.R. 1928, Ch. 359; 97 L.J. Ch. 168; 138 L.T. 691; 92 J.P. 46; 26 L.G.R. 278; 44 T.L.R. 308.

(3) *Sandgate U.D.C.* v. *Kent C.C.* (1898), 79 L.T. 426; 15 T.L.R. 59.

(4) *A.G.* v. *Staffordshire C.C.*, L.R 1905, 1 Ch. 336; 69 J.P. 97; 3 L.G.R. 379.

(5) *In re Warminster Loc. Bd. & Wilts C.C.* (1890), L.R. 25 Q.B.D. 450; 59 L.J.Q.B. 434; 62 L.T. 902; 54 J.P. 375; *Re Burslem Cpn. & Staffordshire C.C.*, L.R. 1896, 1 Q.B. 24; 65 L.J.Q.B. 1; 73 L.T. 651; 59 J.P. 772; approved by H. L. in *Derbyshire C.C.* v. *Matlock Bath and Scarthin Nick U.D.C.*, L.R. 1896 A.C. 315; 65 L.J.Q.B. 419; 74 L.T. 595; 60 J.P. 676.

(6) *Amesbury Guardians* v. *Wilts JJ.* (1883), L.R. 10 Q.B.D. 480; 52 L.J.M.C. 64; 47 J.P. 184; distinguished in *Acton U.D.C.* v. *London United Tramways, Ld.*, L.R. 1909, 1 K.B. 68; 73 J.P. 6; 7 L.G.R. 20.

(7) *Marlborough Cpn.* v. *Wilts C.C.* (1894), 58 J.P 213; *In re Bedfordshire C.C.* v. *Bedford U.S.A.*, L.R. 1894, 2 Q.B. 786; 64 L.J.Q.B. 26; 71 L.T. 433; 58 J.P. 786.

(8) *Middlesex C.C.* v. *Willesden & Hendon D.C.s* (1896), 60 J.P. 630.

SECT. 34. [*Agreements between county councils and urban district councils with respect to unclassified roads.*]

As from the appointed day, a county council may by agreement with the council of any urban district within the county undertake, in consideration of such payments as may be agreed, the maintenance, repair and improvement of any unclassified road within the urban district, and any road with respect to which such an agreement is for the time being in force shall be vested in the county council, and that council and the urban district council, respectively, shall have in regard to it the same functions as they would have if it were a county road.

Note.

Agreements between Highway Authorities.—*The present section is confined to agreements between county councils and urban district councils with regard to unclassified roads, but sect.* 3 *of the Highways and Bridges Act,* 1891,[1] *is much wider and provides as follows :—" The council of any administrative county, and any highway authority or authorities, and the council of any adjoining county, may from time to time make and carry into effect agreements with each other for or in relation to the construction, reconstruction, alteration or improvement, or the freeing from tolls, of any main road or other highway, or of any bridge (including the approaches thereto), wholly or partly situate within the jurisdiction of any one or more of the party [sic] or parties to the agreement. All expenses incurred by any such county council or highway authority, in pursuance of this section, shall be defrayed as part of the expenses incurred in relation to the maintenance, repair, improvement, or enlargement of bridges, main roads, or other highways by such council or highway authority, in such proportions as shall be determined by any such agreement as aforesaid, and any powers of borrowing, applicable to the raising of any fund for the payment of any such expenses as aforesaid, shall be applicable accordingly : Provided that if a highway board think it just that any parish or parishes specially benefited by any construction, reconstruction, alteration, or improvement under this section should bear the expense thereof, or any part of such expense, they may, with the approval of the county council of the county within which their highway district is situate, and with the assent of the inhabitants of such parish or parishes in vestry assembled, charge such expense, or such part thereof as they may think just, exclusively*

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(1) 54 & 55 Vict. c. 63, s. 3. By s. 2 the Act is not to " apply to the County of London." By s. 6, the supplying of road materials is not to disqualify if its value is not more than £50 in any one year.

on such parish or parishes." *Where an agreement was made for the widening by a railway company of a bridge carrying a main road over the railway in consideration of the payment by the county and urban district councils of part of the cost, the Local Government Board advised that an agreement between the councils under the Act of* 1891 *was not sufficient to legalise the payment by the urban district council without an agreement between them and the railway company under sect.* 147 *of the Public Health Act*, 1875.[1] *The Board also stated that the borrowing powers of the Public Health Act*, 1875,[2] *were available for expenses under the Act of* 1891. *The word* "*highway*" *in the Act of* 1891 "*includes any public bridle path or footway.*"[3]

SECT. 35. [*Delegation of road functions by county councils to district councils.*]

(1) The council of any district wholly or partly within a county may within three months after the commencement of this Act apply to the county council for the delegation to them as from the appointed day of the functions of the county council with respect to the maintenance, repair and improvement of, and other dealing with—

(*a*) the whole of the unclassified roads, exclusive of county bridges, within the district or such part of the district as is within the county;

(*b*) all or any of the classified roads, exclusive of county bridges, within the district or such part of the district as is within the county.

(*c*) all or any of the county bridges within the district or such part of the district as is within the county.

(2) In so far as the application is in respect of unclassified roads, the county council shall grant the application unless they are satisfied that having regard to the best means of promoting economy and efficiency in highway administration throughout the county and to the particular circumstances of the district in respect of which the application is made the application ought not to be granted.

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(1) Set out in Appendix, *post*, p. 274.

(2) 38 & 39 Vict. c. 55, ss. 233–244. See " Glen's Public Health," 1925 Edition, at pp. 613–630. For ss. 233, 234, see Appendix, *post*, p. 284.

(3) 54 & 55 Vict. c. 63, s. 6.

(3) In so far as the application is in respect of classified roads or county bridges, the county council shall have unfettered discretion whether or not to grant the application.

(4) Before the first day of October, 1929, every county council shall prepare and submit to the Minister of Transport a statement specifying the applications made under this section and the council's decisions thereon, and in any case in which an application for the delegation of functions in respect of unclassified roads has been refused, the grounds on which the refusal was based, and shall send to the council of every district who have made application under this section a copy of so much of the statement as affects the district, and the council of any district whose application for the delegation of functions relating to unclassified roads has not been granted by the county council may within one month after the receipt of such copy, or, if the county council have failed to comply with the provisions of this subsection, before the first day of November, 1929, appeal to the Minister of Transport, who, if satisfied that the application should have been granted, may by order direct the county council to grant the application, and the county council shall comply with any direction so given.

(5) After the appointed day the council of any district wholly or partly within a county to whom any such functions as are mentioned in subsection (1) of this section are not for the time being delegated may apply to the county council for the delegation of those functions, and in the event of the county council refusing or failing within three months to grant the application so far as it relates to unclassified roads, the district council may within one month of such refusal or failure appeal to the Minister of Transport, who, if satisfied that the application should have been granted, may by order direct the county council to grant the application so far as it relates to unclassified roads; and the county council shall comply with any direction so given:

Provided that an application under this subsection shall not, without the consent of the Minister of Transport, be made except in the year 1934, the year 1939 or any succeeding year being the fifth year after the last year in which such an application might have been made.

(6) The council of any district wholly or partly within a county to which any functions have been delegated under this section may, by giving notice in writing to the county council, relinquish those functions.

(7) The county council by whom any functions have been delegated to a district council under this section may, by giving notice in writing to the district council, determine the delegation :

Provided that if and so far as the notice relates to unclassified roads, the district council shall be entitled within one month after receiving the notice, to appeal to the Minister of Transport who, if satisfied that the delegation of functions as respects unclassified roads should not be determined, may by order cancel the notice given by the county council.

(8) An application for the delegation of functions and a notice of the relinquishment of the delegation of functions or of the determination of the delegation of functions under the three last foregoing subsections of this section must be made before the first day of October in any year, and the delegation, relinquishment or determination shall take effect as from the first day of April in the next following year.

Note.

DELEGATION TO DISTRICT COUNCILS.—*With the elaborate delegation provisions of the present section and sect.* 36, *may be compared the simple provision in sect.* 64 *of the Local Government Act,* 1894,[1] *that "a county council may employ a district council as their agents in the transaction of any administrative business on matters arising in, or affecting the interests of, its own district." See also sect.* 28 (2) *of the Local Government Act,* 1888,[2] *which enables county councils "to delegate, with or without any restrictions or conditions as they may think fit, any powers or duties transferred to them by or in pursuance of this Act, either to any committee of the county council appointed in pursuance of this Act, or to any district council in this Act mentioned," but without the "power of raising money by rate or loan."*[3] *Delegated powers may not be delegated to a committee*—delegatus non potest delegare—*though there is nothing to prevent a committee dealing with the delegated matters subject to subsequent ratification by the council.*[4]

SECT. 36. [*Conditions and effect of delegation of functions.*]

(1) Where in pursuance of the last foregoing section functions are delegated to a district council, the district council, in the

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(1) 56 & 57 Vict. c. 73, s. 64.

(2) 51 & 52 Vict. c. 41, s. 28 (2).

(3) *Ibid.*, s. 28 (3).

(4) See the cases collected in the Note to P.H. Act, 1875, s. 200, in "Glen's Public Health," 1925 Edition, at pp. 555, 556.

discharge of those functions, shall act as agents for the county council, and it shall be a condition of any such delegation—

(*a*) that the works to be executed and the expenditure to be incurred by the district council in the discharge of those functions shall be subject to the approval of the county council; and

(*b*) that the district council shall comply with any requirement of the county council as to the manner in which and the persons by whom any works are to be carried out and with any general directions of the county council as to the terms of contracts to be entered into for such purposes; and

(*c*) that the works shall be completed to the satisfaction of the county council;

and if at any time the county council are satisfied on the report of their surveyor or other person appointed for the purpose that any portion of a road with respect to which functions are so delegated is not in proper repair and condition, the county council may cause notice to be given to the district council requiring them to place the road in proper repair and condition, and if such notice is not complied with within a reasonable time, the county council may do anything that seems to them necessary to place the road in proper repair and condition.

(2) Where in pursuance of the foregoing section functions are delegated to a district council, then, so long as the delegation is in force, the district council shall discharge as agents for the county council the functions of the county council within the district under the enactments mentioned in Part I or Part III of the First Schedule to this Act, as the case may require, except so far as those functions relate to roads with respect to which functions are not delegated to the district council:[1]

Provided that—

(*a*) the county council may impose on the district council such conditions as they think fit with respect to any action to be taken by the district council in the discharge of such functions as aforesaid, and with respect to any work being completed to their satisfaction;

(*b*) if for the purpose of making any contribution towards the

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(1) The enactments mentioned in Sched. I, Part I, will be found in the Note to s. 30, *ante*, p. 80; and those mentioned in Sched. I, Part III, in the Note to s. 31, *ante*, pp. 84, 85.

cost of private street works or for any other purpose in connection with such functions as aforesaid the district council desire to incur expenditure which in the opinion of the county council would not be properly chargeable as general county expenses, the district council shall have the same powers of raising money for the purposes of any such expenditure as they would have had if the functions under the said enactments had been directly vested in them;

(*c*) the surveyor of the district council shall be the surveyor for the purposes of the Private Street Works Act, 1892.[1]

SECT. 37. [*Amendment of law with respect to declaring roads to be county roads.*]

(1) The grounds on which an application by an urban district council can be made under section 15 of the Highways and Locomotives (Amendment) Act, 1878, for an order declaring a road to be a county road shall include the ground that the road is a road situate in a part of the urban district which is of a rural character.

(2) If on an application made under section 15 of the said Act a county council refuse to make an order declaring the highway which is the subject of the application to be a county road, or fail for a period of six months after the application to make such an order, or if, having made such an order, the county council refuse or fail to confirm the order within six months of the making thereof, the applicant authority may appeal to the Minister of Transport who may, after considering any representations made by the county council, and, if the council so require, after holding a local inquiry, make an order declaring the highway to be a county road.

(3) An order of the Minister of Transport under this section shall have effect as if it were an order made and confirmed by the county council under the said section 15, and shall come into operation on such date as may be fixed by the order.

Note.

MAINING ROADS.—*Sect.* 15 *of the Highways and Locomotives* (*Amendment*) *Act*, 1878,[2] *provides as follows* :—" *Where it appears*

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(1) Set out in Appendix *post*, p. 299.

(2) 41 & 42 Vict. c. 77, s. 15.

to any highway authority that any highway within their district ought to become a main road by reason of its being a medium of communication between great towns, or a thoroughfare to a railway station, or otherwise, such highway authority may apply to the county authority for an order declaring such road, as to such parts as aforesaid, to be a main road ; and the county authority, if of opinion that there is probable cause for the application, shall cause the road to be inspected, and, if satisfied that it ought to be a main road, shall make an order accordingly. A copy of the order so made shall be forthwith deposited at the office of the clerk of the peace of the county, and shall be open to the inspection of persons interested at all reasonable hours ; and the order so made shall not be of any validity unless and until it is confirmed by a further order of the county authority made within a period of not more than six months after the making of the first mentioned order." It was held that a county council were not bound to entertain an application under this section by commissioners, who were authorised by a special Act to repair certain roads, appoint a surveyor, and levy road rates ; for the expression "highway authority" does not include an exceptional authority having jurisdiction over an exceptional area.[1]

By sect. 11 (7) *of the Local Government Act,* 1888,[2] "*where a county council declare a road to be a main road, such declaration shall not take effect until the road has been placed in proper repair and condition to the satisfaction of the county council." By subsect.* (9) *of the same section,*[3] "*if any difference arises under this section between a county council and a district council as to . . . a road having been placed in proper repair and condition previously to its becoming a main road . . . such difference shall, if either council so require,* [*be determined by the Local Government Board (now the Minister of Transport) either as arbitrators or otherwise at the option of the Board (now the Minister)*]." *The words in square brackets were substituted by the Local Government (Determination of Differences) Act,* 1896,[4] *for the words "be referred to the arbitration of." This amendment was made after the court had granted a mandamus requiring the Local Government Board to state a case for the opinion of the court on a question of law which had arisen in an arbitration held in pursuance of the subsection as it originally stood.*[5] *Now,*

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(1) *Reg.* v. *Norfolk C.C.* (1891), 60 L.J.Q.B. 379; 65 L.T. 222; 56 J.P. 7.

(2) 51 & 52 Vict. c. 41, s. 11 (7).

(3) *Ibid.*, s. 11 (9), as left after the repeals effected by s. 137 and Sched. XII of the present Act. For the remainder of this section that is still in force, see the Appendix, *post,* p. 287.

(4) 59 & 60 Vict. c. 9, s. 1.

(5) *In re Kent C.C. & Sandgate Loc. Bd.*, L.R. 1895, 2 Q.B. 43; 64 L.J.Q.B. 502; 72 L.T. 725; 59 J.P. 456.

if the Minister of Transport proceeds to determine a dispute under the subsection otherwise than as arbitrator, his decision cannot be questioned in that manner.[1]

SECT. 38. [*Saving as to highways repairable by persons other than highway authorities.*]

(1) Nothing in this Act with respect to main roads or county roads shall affect the liability of any person or body of persons to maintain and repair any highway or part of a highway not repairable by the inhabitants at large, or, subject as hereinafter provided, affect any exemption from a highway rate granted under section 33 of the Highway Act, 1835, or under any other enactment, as continued by any scheme in force under section 64 of the Rating and Valuation Act, 1925:

Provided that for the purpose of securing the continued operation of any such exemption as aforesaid—

(*a*) the council of every county in which any such exemption is in force shall submit to the Minister a scheme making provision for the purpose aforesaid; and

(*b*) the provisions contained or incorporated in section 64 (2) (*b*), (*c*) and (*d*) and in the proviso to such subsection with respect to the making, approval and effect of schemes to be made thereunder shall apply to schemes to be made under this section with the substitution of references to county councils for references to rating authorities.

(2) For the purposes of this section, the expression "highway" includes any bridge carrying the highway.

Note.

LIABILITY TO REPAIR HIGHWAYS.—*A highway may be repairable by nobody, by a highway authority, or by a private person or body. The present section preserves the private liability, which may arise either* (a) *ratione tenuræ,* (b) *ratione clausuræ,* (c) *ratione nocumenti, or* (d) *by statute.*

As to (a), *if repairs have been carried out for many years by a landowner, particularly if at the request of the highway authority, it will be presumed by the court that he did so because liable by reason of*

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(1) *Bexley Loc. Bd.* v. *West Kent Main Sewerage Board* (1882), L.R. 9 Q.B.D. 518; 51 L.J.Q.B. 456; 47 L.T. 192; 46 J.P. 519.

the tenure of his land; but if the repairs are slight and not of long duration, it will be presumed that he executed them for his own purposes.[1]

As to (b), *if an owner fences both sides of an ancient highway and leaves no room for deviation when the way becomes foundrous, he will be liable to repair the way as long as the fences remain; if the fences are erected by two persons, one on each side, the way is repairable by the two by moieties; if there is an ancient fence on one side, and a new fence is erected on the other, the erector of the fence is liable to repair the whole way; and if a fence is erected on one side only, the erector is liable to repair half the way.*[2]

As to (c), *if a highway is destroyed for private purposes and replaced by some artificial structure, the destroyer is liable to repair the structure and the way over it.*[3]

As to (d), *local Acts sometimes impose a liability to repair a highway as part of the terms on which the statutory powers are granted.*[4] *The Bill contained the words "not being a highway authority" after the words "body of persons" in subsect.* (1), *but they are omitted in the Act.*[5]

HIGHWAY RATE EXEMPTIONS.—*As to sect.* 64 *of the Rating and Valuation Act*, 1925, *see the Note to sect.* 68.

SECT. 39. [*Application of* 38 & 39 *Vict. c.* 55, *s.* 308, *in certain cases.*]

(1) In any case in which a public utility undertaking sustains damage by reason of the exercise by a county council, in relation to any road vested in them by virtue of this Part of this Act, of functions which before the road was so vested were only exerciseable in relation thereto by district councils under the powers of the Public Health Act, 1875, section 308 of that Act (which relates to compensation) shall apply as if for the reference therein to a local authority there were substituted a reference to the county council, and as if the functions had been exercised under the powers of that Act.

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(1) See *Rundle* v. *Hearle*, L.R. 1898, 2 Q.B. 83; 67 L.J.Q.B. 741; 78 L.T. 561; *Attorney-General* v. *Woolwich B.C.* (*ante*, p. 76 (1)); and "Glen on Highways," 1897 Edition, at pp. 131–135.

(2) See *Reg.* v. *Ramsden* (1858), E.B. & E. 949; 27 L.J.M.C. 296; 5 Jur. N.S. 169; and "Glen on Highways," at pp. 141–144.

(3) See the *Reigate Case, infra* (5), and *ante*, p. 92 (2), and the cases cited in argument.

(4) See, e.g., *Reg.* v. *Sheffield Canal Co.* (1849), 13 Q.B. 913; 19 L.J.M.C. 44; 4 N.S.C. 25; 14 Jur. 170. For a recent statute imposing such a liability, see the Bournemouth and Swanage Motor Road and Ferry Act, 1923 (13 & 14 Geo. V, c. lxxxviii), s. 43.

(5) For effect of omitted words, see decision on them (in L.G. Act, 1888, 51 & 52 Vict. c. 41, s. 97) in *Reigate Cpn.* v. *Surrey C.C.*, L.R. 1928, Ch. 359; 26 L.G.R. 278.

(6) *Post*, p. 134 (2). As to s. 33 of Highways Act, 1835 (5 & 6 Wm. IV, c. 50). see "Glen on Highways," pp. 321–327.

(2) In this section "public utility undertaking" means any company or authority which carries on a gas, water, hydraulic power, electricity, tramway, light railway or trolley vehicle undertaking, and the expression "trolley vehicle" has the same meaning as in the Road Transport Lighting Act, 1927.

Note.

COMPENSATION.—*Sect.* 308 *will be found in the Appendix.*[1]

TROLLEY VEHICLES.—*By sect.* 15 *of the Road Transport Lighting Act,* 1927,[2] "*the expression 'trolley vehicle' means a mechanically propelled vehicle adapted for use upon roads without rails and moved by power transmitted thereto from some external source.*"

Town Planning.

SECT. 40. [*Power of county councils to act jointly with other local authorities in preparation or adoption of a town planning scheme.*]

(1) Where after the appointed day the council of a county and any local authority or local authorities under the Town Planning Act, 1925, are desirous of acting jointly in the preparation or adoption of a town planning scheme, they shall be entitled to do so, and the council and the local authority or authorities may concur in appointing out of their respective bodies a joint committee for the purpose, and in conferring, with or without restrictions, on such a joint committee any powers which the local authority or local authorities might exercise for the purpose.

(2) Where a joint committee of two or more local authorities has been constituted under proviso (ii) to section 2 (1) of the Town Planning Act, 1925, or under any corresponding enactment repealed by that Act, and at any time after the appointed day the council of the county of which the district of any of the local authorities forms part are desirous of being represented on the committee, they shall be entitled to appoint such number of members of the committee on such terms as may be agreed with the local authorities or, failing agreement, as may be determined by the Minister; but neither the identity of the committee, nor the validity of any previous proceedings of the committee, shall be thereby affected.

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(1) *Post*, p. 287.

(2) 17 & 18 Geo. V, c. 37, s. 15.

(3) The provisions of sections 57 and 58 of the Local Government Act, 1894, with regard to joint committees shall, with the necessary modifications, apply to any joint committee appointed under this section as if county councils were included amongst the councils in those sections mentioned; subject, however, to this modification, that any difference as to the proportions in which costs incurred by a joint committee are to be defrayed by the councils by whom it is appointed shall be determined by the Minister.

(4) This section shall extend to the County of London.

Note.

TOWN PLANNING.—*For a summary of the town planning provisions of the Act, see the Introduction.*[1] *For works on this subject, see those mentioned below.*[2] *There have been decisions on the following subjects: compensation in respect of building line fixed by scheme;*[3] *infringement of building line by erection of petrol pump;*[4] *removal of erections on site reserved in approved scheme for proposed new road;*[5] *resolution to prepare scheme, as "incumbrance" as between vendor and purchaser,*[6] *and as reason for repudiating contract to buy shares in greyhound racing track company;*[7] *and right to act in defiance of scheme during its preparation.*[8] *Another action for such defiance was settled amicably.*[9]

JOINT ACTION.—*Sects.* 57 (*as to joint committees*) *and* 58 (*as to accounts of committees*) *of the Act of* 1894 *will be found in the Appendix.*[10] *See also the next section of the present Act.*

SECT. 41. [*Power to combine councils for the purposes of town planning schemes.*]

(1) Where it appears to the Minister that it is expedient that two or more local authorities (including county councils) should

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(1) *Ante*, pp. 6, 7.

(2) Safford and Olver on "Town Planning," 1925 Edition, Hadden Best & Co., gives the Act of 1925 and the Regulations; Glen's "Town Planning," 1927, Solicitors' Law Stationery Society, gives reported and unreported cases, 36 decisions of the Minister, and notes on several recent inquiries into schemes.

(3) *In re Ellis & Ruislip-Northwood U.D.C.*, L.R. 1920, 1 K.B. 343; 88 L.J.K.B. 1258; 122 L.T. 98; 83 J.P. 273; 17 L.G.R. 607. See comments in Glen's T.P., *supra*, at pp. 2–7.

(4) *Mackenzie* v. *Abbott*, 1926, 24 L.G.R. 444; Glen's T.P. 7, 8.

(5) *McLean* v. *Hunslet R.D.C.*, 1927 J.P. Journal 112; Glen's T.P. 10, 11.

(6) *In re Forsey & Hollebone's Contract*, L.R. 1927, 2 Ch. 379; 97 L.J.Ch. 4; 138 L.T. 26; 91 J.P. 182; 25 L.G.R. 442. See comments in Glen's T.P. 34–37.

(7) *Coles* v. *White City* (*Manchester Greyhound Association*) *Ltd.*, 1928 Sol. J. 860.

(8) *Bromley R.D.C.* v. *Blatch* (*Clauson, J.*), *Solicitor's Journal, May* 25, 1929.

(9) *Epsom R.D.C.* v. *Palser*, 1925, Glen's T.P. 9, 10.

(10) *Post*, p. 310.

be combined for purposes connected with the preparation or adoption of a town planning scheme, it shall be lawful for the Minister, by order, to provide for the constitution of a joint committee for the purpose, and to confer on such a joint committee any powers which a local authority under the Town Planning Act, 1925, might exercise in relation to the preparation or adoption of a town planning scheme :

Provided that the Minister, before making such an order, shall hold a local inquiry unless all the local authorities whom it is proposed to combine, assent.

(2) The order may provide for the apportionment of the representation on the committee to the several authorities, as to the functions of the joint committee, and as to their expenses.

(3) The order may, where necessary for the purposes of the order, provide for the dissolution of any joint committee which may have been constituted under proviso (ii) to section 2 (1) of the Town Planning Act, 1925, or under any corresponding enactment repealed by that Act.

Note.

JOINT ACTION.—*Proviso* (ii) *to sect.* 2 (1) *of the Act of* 1925 *is as follows :*[1] *"Where any local authorities are desirous of acting jointly in the preparation or adoption of a town planning scheme, they may concur in appointing out of their respective bodies a joint committee for the purpose, and in conferring with or without restrictions on any such committee any powers which the appointing councils might exercise for the purpose, and the provisions of sects.* 57 *and* 58 *of the Local Government Act,* 1894, *in regard to joint committees, shall, with the necessary modifications, apply to any joint committee so appointed." Sects.* 57 *and* 58 *of the Act of* 1894 *will be found in the Appendix.*[2]

SECT. 42. [*Power to constitute county council responsible authority.*]

(1) A town planning scheme may provide for the county council being after the appointed day the authority responsible for enforcing the observance of any of the provisions of the scheme, or for the execution of any works which under the scheme or the Town Planning Act, 1925, are to be executed by a local authority.

(2) Where a town planning scheme has been approved by the Minister before the appointed day, and under the scheme a rural

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(1) 15 Geo. V, c. 16, s. 2 (1) (ii).

(2) *Post*, p. 310.

district council are the responsible authority as regards any functions exercisable under the scheme which relate to roads, streets, or building lines, the county council shall as from the appointed day become the responsible authority as regards those functions in place of the rural district council:

Provided that the Minister may by order provide for excepting from the functions so to be transferred to the county council such functions as he thinks fit, or for the discharge, subject to such conditions as may be imposed by the order, by the rural district council on behalf of the county council of any of the functions transferred to the county council under this subsection.

SECT. 43. [*Power of district councils to relinquish functions to county council.*]

The council of any district wholly or partly within any county may at any time after the appointed day by agreement with the council of the county relinquish in favour of the council of the county any of their functions under the Town Planning Act, 1925, or any scheme made thereunder, upon such terms and subject to such conditions (if any) as may be specified in the agreement, and the relinquishment may be made either for a specified term, or pending the rescission or variation of the agreement, and the agreement may apply with such modifications and adaptations (if any) as may be agreed, any of the provisions of this Act relating to the transfer of property and liabilities and the transfer, superannuation and compensation of officers.[1]

A copy of an agreement made under this section shall forthwith be sent to the Minister.

SECT. 44. [*Amendment of* 15 *Geo.* V, *c.* 16, *s.* 3.]

Section 3 of the Town Planning Act, 1925 (which required the councils of certain boroughs and urban districts to prepare town planning schemes before the first day of January, 1929) shall have effect as if for that date there were substituted the first day of January, 1934, or such later date before the thirty-first day of December, 1938, as the Minister may in any case allow.[2]

SECT. 45. [*Extent of Part III.*]

Save as therein otherwise expressly provided, this Part of this Act shall not extend to the county of London.[3]

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(1) The provisions of the present Act referred to are ss. 113–126.

(2) 15 Geo. V, c. 16, s. 3.

(3) Sect. 40 is expressly extended to London, see subsect. (4).

PART IV.

MISCELLANEOUS LOCAL GOVERNMENT PROVISIONS.

Rearrangement of County Districts.

SECT. 46. [*First general review of districts by county councils.*]

(1) The council of every county shall as soon as may be after the commencement of this Act, after conferences with representatives of the councils of the several districts wholly or partly within the county, review the circumstances of all such districts and consider whether it is desirable to effect any of the following changes :—

(*a*) any alteration or definition of the boundaries of any such district or of any parish;

(*b*) the union of any such district or parish with another such district or parish;

(*c*) the transfer of any part of such district or parish to another district or parish;

(*d*) the conversion of any such district or any part thereof, if it is a rural district, into an urban district, or if it is an urban district, into or so as to form part of a rural district;

(*e*) the formation of any new district or parish;

and shall forthwith after the review is completed as respects the whole or any part of the county, and before the first day of April, 1932, or such later date as the Minister may in any case allow, send to the Minister a report of the review, together with proposals as to the changes, if any, which they consider desirable :

Provided that, before making any such proposals, the county council shall consult with the councils of the county boroughs adjoining the county, and the Minister shall give those councils an opportunity of laying before him their views on the proposals made by the county council.

(2) The proposals may include proposals for the transfer of a part of a non-county borough to another district, or of another district or part of another district to a non-county borough, and, if the council of the county borough concerned agree, for an alteration of boundaries between the county borough and the county and any district therein; but, save as aforesaid, the proposals shall not affect any borough.

(3) As soon as any such proposals are made to the Minister, the council making the proposals shall send copies thereof to the councils of the several districts affected thereby and shall publish in one or more newspapers circulating in those districts a notice stating that proposals have been made and that a copy thereof is open to inspection at a specified place, and that representations with respect thereto may be made to the Minister within six weeks after the publication of the notice.

(4) The Minister shall consider the proposals and any representations with respect to the proposals, or any of them, which may have been made by any local authorities (including parish councils and parish meetings) or any local government electors affected thereby, and either may make an order giving effect to the proposals, or any of them, with or without modifications, or may refuse to make such an order :

Provided that, if an objection with respect to any proposal is made by a local authority affected thereby, and is not withdrawn, the Minister shall not make an order giving effect to the proposal without first holding a local inquiry into the objection.

(5) If, either on representations made by a district council or otherwise, it appears to the Minister, after consultation with such authorities as appear to him to be interested, that there is a primâ facie case for making any such change as aforesaid, and that the county council have failed to make a proposal for the purpose within the time allowed, the Minister shall publish in one or more newspapers circulating in the districts affected a notice stating that he proposes to make the change, and that a copy of his proposals is open to inspection at a specified place, and that representations with respect thereto may be made to him within six weeks after the publication of the notice; and the Minister after considering any representations which may be made within that period, and, if any objections are made by any local authority and are not withdrawn, after holding a local inquiry with respect to the proposals to which the objections relate, may make an order effecting the change or such modified change as appears to him to be expedient.

(6) If it appears to the Minister that the council of a county have within three years before the commencement of this Act undertaken a general review of the circumstances of districts within the county, the Minister may direct that such review, whether completed before or after the commencement of this Act, shall for

the purposes of this Part of this Act be treated as a review for which provision is made under subsection (1) of this section.

(7) An order under this section shall be laid before Parliament as soon as may be after it is made.

Note.

BOUNDARIES.—*For a summary of Part IV of the Act, see the Introduction.*[1] *For a work on the subject of boundary alterations, see that mentioned below.*[2] *As to the existing provisions relating to the alteration of boundaries, see the Note to sect.* 48. *As to orders under the present Act, see sect.* 131.

SECT. 47. [*Subsequent periodical reviews.*]

(1) A county council may subsequently whenever they think it desirable, and shall if so required by the Minister, review generally the circumstances of the districts within the county, so, however, that the interval between the original review and the first review under this section, or between any two reviews under this section, shall in no case be less than ten years.

(2) The provisions of the last foregoing section shall apply to every review under this section with such modifications as are necessary, and with this modification that if within four weeks after the making by the Minister of an order under this section objection thereto is made by the council of a borough to which the order relates and is not withdrawn, the order of the Minister shall be provisional only and shall not have effect unless and until confirmed by Parliament.

SECT. 48. [*Saving of powers under and amendments of s.* 57 *of* 51 *&* 52 *Vict.* c. 41.]

(1) Nothing in this Part of this Act shall affect the power of making orders under section 54 or section 57 of the Local Government Act, 1888, but the said section 57 shall have effect subject to the following amendments :—

(*a*) it shall be lawful for a county council to make an order under the section without a proposal having been made to the council :

(*b*) the county council on making, and the Minister on confirming, an order may make such modifications in the original proposals or the order as the county council or Minister think fit; but before any such modifications are made, notice of the intention to make them shall be given to all local authorities concerned, and such local authorities shall be given an opportunity of making representations thereon:

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(1) Boundaries, etc., *ante*, pp. 7, 8. Public Health Services, *ante*, pp. 8, 9.

(2) Norton & Allworth on "Borough Boundaries," 1926 Edition.

(*c*) it shall be lawful for the Minister either to modify or to refuse to confirm an order under the section whether or not a petition against the order has been presented, but before doing so the Minister shall, if so requested by the county council or the council or parish meeting, if any, by whom the proposals were made, cause a local inquiry to be held:

(*d*) if a proposal under the section has been made by the council of a district or parish, or by a parish meeting, and the county council refuse or neglect to hold a local inquiry or to make an order under the section, the council or meeting which made the proposal may apply to the Minister, and the Minister may, after giving the county council an opportunity of making representations, hold a local inquiry, or make any such order as the county council might have made, as the case may be.

(2) The said section 57 shall in its application to county borough councils have effect subject to the amendments effected by this section so far as applicable, and as if for references to county councils there were therein substituted references to county borough councils.

(3) This section so far as it amends the said section 57 shall extend to the county of London.

Note.

EXISTING ENACTMENTS.—*The original review is to take place "as soon as may be after the commencement of this Act," see sect.* 46 (1). *There is no definition of that expression, so the date is that of the Royal Assent, March* 27, 1929. *Intervals between reviews are to be not less than ten years, see sect.* 47 (1). *Pending the original review, and during these ten year intervals, orders may, subject to the amendments made by subsects.* (1) *and* (2) *of the present section, be made under sects.* 54 *and* 57 *of the Local Government Act*, 1888,[1]

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(1) 51 & 52 Vict. c. 41, ss. 54, 57, as amended by S.L.R. Act, 1908. The powers of the Minister of Health under s. 54 (1) (e) were transferred to the Secretary of State in 1921, see 19 L.G.R. (Orders) 171.

which provide as follows :—By sect. 54, "(1) *Whenever it is represented by the council of any county or borough to the* [*Minister of Health*]—(*a*) *that the alteration of the boundary of any county or borough is desirable ; or* (b) *that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable ; or* (c) *that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable ; or* (d) *that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough ; or* (e) *that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable ; or* (f) *that the alteration of any area of local government partly situate in their county or borough is desirable, the* [*Minister of Health*] *shall, unless for special reasons* [*he thinks*] *that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as* [*he*] *may deem expedient, or may refuse such order, and if* [*he makes*] *the order may by such order divide or alter any electoral division.* (2) *Provided that in default of such representation by the council of any county or borough . . . the* [*Minister of Health*] *may cause such local inquiry to be made, and thereupon may make such order as* [*he*] *may deem expedient.* (3) *Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.* (4) *Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.*"

By sect. 57, " (1) *Whenever a county council is satisfied that a primâ facie case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things ; that is to say*—(*a*) *the alteration or definition of the boundary thereof ;* (*b*) *the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish ;* (*c*) *the conversion of any such district or part thereof, if it is a rural district, into an urban district, and, if it is an urban district, into a rural district, or* *the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts ; (d) the division of an urban district into wards ; and (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards, the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the [Minister of Health], [Board of Education], or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly. (2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council. (3) In any other case the order shall be submitted to the [Minister of Health] ; and if within* [six weeks[1]] *after such notice of the provisions of the order as the [Minister of Health determines] to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the [Minister of Health] to disallow the order, the [Minister of Health] shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not. (4) If any such petition is not presented, or being presented is withdrawn, the [Minister of Health] shall confirm the order. (5) The [Minister of Health], on confirming an order, may make such modifications therein as [he considers] necessary for carrying into effect the objects of the order. (6) An order under this section, when confirmed by the [Minister of Health], shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament. (7) This section shall be in addition to, and not in derogation of, any power of the [Minister of Health] in respect of the union or division or alteration of parishes."*

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(1) Reduced from 3 months by L.G. Act, 1894 (56 & 57 Vict. c. 73), s. 41.

SECT. 49 [*Adjustment of boundaries of counties and county boroughs.*]

(1) Where at the commencement of this Act any district or parish is not wholly comprised within one county, or where a part of a county is wholly detached therefrom, the county councils concerned shall as soon as may be take the case into consideration, and if as a result of such consideration a joint representation is made to the Minister by those councils, the Minister may, after holding a local inquiry, except in cases where he is satisfied that an inquiry is unnecessary, by order make such alteration of the counties as may be necessary to secure that the whole of the district or parish shall be within a single county, or to provide that such detached part shall be included in or divided amongst the county or counties surrounding it.

(2) The Minister may, on a joint representation being made by the council of a county and the council of a county borough, after holding a local inquiry, except in cases where he is satisfied that an inquiry is unnecessary, by order alter or define the boundary between the county and the county borough.

(3) An order under this section shall be laid before Parliament as soon as may be after it is made.

Review of Electoral Divisions.

SECT. 50. [*Review by county councils of electoral divisions.*]

(1) The council of every county, as soon as may be after completing the first general review of the circumstances of districts wholly or partly within the county made or treated as having been made by them under this Part of this Act, shall review the electoral divisions of the county and shall consider whether any alteration of the boundary of any such division, or of the number of county councillors and electoral divisions in the county, is desirable, and shall forthwith, after the review is completed and before the first day of January, 1933, or such later date as the Secretary of State may in any case allow, send to the Secretary of State a report of the review, together with proposals as to the alterations (if any) which they consider desirable, and any such proposals shall have effect as if they had been a representation made to the Secretary of State under section 54 of the Local Government Act, 1888 :

Provided that, if in the case of any county the Secretary of State is satisfied after considering such representations (if any) as may be made by local authorities in the county, that it is unnecessary to make any such review as aforesaid, he may direct that this section shall not apply as respects that county.

(2) If either on representations made by a local authority or otherwise it appears to the Secretary of State, after consultation with such authorities as appear to him to be interested, that there is a prima facie case for making any such alteration as aforesaid and that the county council have failed to make a proposal for the purpose within the time allowed, the Secretary of State shall publish in one or more newspapers circulating in the county a notice that he proposes to make the alteration, and that a copy of his proposals is open to inspection at a specified place, and that representations with respect thereto may be made to him within six weeks after the publication of the notice, and the Secretary of State, after considering any representations which may be made within that period, and if any objections are made by any local authority and are not withdrawn, after holding a local inquiry with respect to the proposals to which the objections relate, may make an order effecting the alteration or such modified alteration as appears to him to be expedient.

(3) An order made under this section shall be laid before Parliament as soon as may be after it is made.

Miscellaneous.

SECT. 51. [*Reports and returns.*]

(1) The council of any county or county borough, or of any district, and the common council of the City of London and the council of any metropolitan borough and any joint committee or joint board appointed jointly by two or more such councils as aforesaid shall make to the Minister such reports and returns and give him such information with respect to their functions as he may require.[1]

(2) This section shall extend to the county of London.

SECT. 52. [*Travelling expenses.*]

(1) As from the appointed day it shall, subject to the provisions of this section, be lawful for the council of any county to defray any expenses necessarily incurred by members of the council or of any committee thereof to which this section applies in travelling to and from meetings of the council or committee or in travelling

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(1) See also L.G. Act, 1888, s. 71, in Appendix, *post*, p. 296.

by direction of the council or committee for the purpose of carrying out any inspection necessary for the discharge of the functions of the council or committee.

(2) No expenses which a county council have, apart from this section, power to defray shall be defrayed under this section, and this section shall not affect any such power.

(3) No expenditure by a county council under this section shall be taken into account for the purpose of determining the amount of any sum payable to the council out of moneys provided by Parliament.

(4) This section shall apply to any committee of a county council appointed for the discharge of functions throughout the whole area for which the county council is charged with those functions, and shall also apply to any sub-committee or joint committee so appointed as if it were a committee of the council.[1]

(5) In this section the expression "sub-committee" means a sub-committee of a committee of a county council, and the expression "joint committee" means a joint committee or joint board appointed by a county council jointly with the council of another county or of a county borough or with a court of quarter sessions.

SECT. 53. [*Borrowing and appropriation of land by councils of counties and boroughs.*]

(1) Section 69 (5) of the Local Government Act, 1888,[2] and sect. 112 (1) of the Municipal Corporations Act, 1882,[3] which fix respectively the maximum period within which loans by county councils and by councils of boroughs are to be repaid, shall have effect as if for "thirty years" there were substituted "sixty years."

(2) A county council may, subject to the approval of the Minister and subject to the like restrictions as are contained in section 95 of the Public Health Acts Amendment Act, 1907,[4] with respect to the appropriation of land by local authorities under that section, appropriate for any purpose for which they are authorised to acquire land any land acquired by the council for some other purpose and not required for that purpose:

Provided that where powers of appropriation of land are conferred on a county council by any other enactment, nothing in this subsection shall affect the powers under that enactment or dispense with the necessity for complying with any conditions imposed by any such enactment.

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(1) Including "guardians committees," see s. 7 (1) (*a*).

(2) This subsection will be found in the Appendix, *post*, p. 295.

(3) This subsection will be found in the Appendix, *post*, p. 296.

(4) This section will be found in the Appendix, *post*, p. 317.

SECT. 54. [*Repeal of* 45 *&* 46 *Vict. c.* 50, *s.* 236.]

Section 236 of the Municipal Corporations Act, 1882 (which contains provisions as to the publication of notices and correspondence with respect to the approval of sales, loans, and other financial arrangements proposed to be effected by certain councils), shall cease to have effect.[1]

SECT. 55. [*Application of Borough Funds Acts to rural district councils.*]

Subject as hereinafter provided, the council of a rural district shall have the like powers of promoting and opposing Bills in Parliament and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of their district as are conferred on councils of urban districts by the Borough Funds Acts, 1872 and 1903,[2] and accordingly, in those Acts, the expressions "governing body" and "council" shall include the council of a rural district, and the expression "chairman" shall include the chairman of such a council :

Provided that section 1 of the Borough Funds Act, 1903, and the other provisions of that Act relating to meetings and polls of electors, shall not apply as respects rural district councils.

SECT. 56. [*Provisions as to expenses of rural district councils.*]

(1) Where any expenses of a rural district council, whether incurred before or after the commencement of this Act, are payable as special expenses, the council may determine to contribute as part of their expenditure for general purposes such sums as appear to them to be reasonable in or towards defraying such expenses, and to treat the remainder, if any, as special expenses.

(2) A rural district council may apportion in such proportions as they think just between any two or more contributory places any expenses, whether incurred before or after the commencement of this Act, which are chargeable as special expenses, and any

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(1) 45 & 46 Vict. c. 50, s. 236.

(2) 35 & 36 Vict. c. 91; 3 Edw. VII, c. 14. See Glen's P.H. at pp. 1698–1708; "Blackwell on Meetings," 1922 Edition by Glen, at pp. 205–214.

expenses so apportioned to any contributory place shall be deemed to be special expenses legally incurred in respect of that contributory place.

(3) Any determination or apportionment by a rural district council under this section shall be binding and conclusive on all parties concerned, notwithstanding any enactment conferring a right of appeal to quarter sessions.

Note.

EXPENSES IN RURAL DISTRICTS.—*As to the expenses of rural district councils, see sect.* 229 *of the Public Health Act,* 1875 ,[1] *and sect.* 29 *of the Local Government Act,* 1894.[2] *Sects.* 230 *and* 231 *of the Public Health Act,* 1875,[3] *were repealed by the Rating and Valuation Act,* 1925.[4]

By sect. 2 (2) *of the latter Act,*[5] "*As from the appointed day the rating authority of each rural rating area shall, in lieu of making a poor rate for each parish, make and levy a general rate for the whole of the district.*" *By subsect.* (5) *of the same section,*[6] "*Where any amount, other than an amount which falls to be raised by means of a special rate under this Part of this Act, is, by virtue of any precept or otherwise, chargeable separately on any part of a rating area, the rating authority shall levy that amount on that part of the area together with, and as an additional item of, the general rate.*"

By sect. 3 *of the same Act,*[7] "(1) *As from the appointed day the rating authority of each rural rating area shall, in lieu of any rate in respect of expenditure under the Lighting and Watching Act,* 1833[8], *and of any rate in respect of special expenses under the Acts relating to public health, make and levy in each part of the area which is liable to be separately rated in respect of any such expenditure or in respect of any such special expenses a separate rate which shall be termed 'a special rate': Provided that, where the amount of any such expenditure, or of any such expenses, for any half year falling to be raised by means of a special rate chargeable on any part of the area is less than ten pounds, or is so small that a general rate of less than one penny in the pound would be sufficient to produce the amount of that expenditure or of those expenses, that amount shall not be levied by a special rate, but shall be levied in that part of the area together with, and as an additional item of, the general rate. In*

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(1) Appendix, *post*, p. 283.

(2) 56 & 57 Vict. c. 73, s. 29. See partial repeal by s. 137, *post*, p. 219, and Glen's P.H. at pp. 2048–2050.

(3) 38 & 39 Vict. c. 55, ss. 230, 231.

(4) 15 & 16 Geo. V, c. 90, s. 69, Sched. VIII.

(5) *Ibid.* s. 2 (2).

(6) *Ibid.* s. 2 (5).

(7) *Ibid.* s. 3.

(8) 3 & 4 Wm. IV, c. 90.

this subsection the expression 'half year' means the period of six months expiring on the thirty-first day of March or the thirtieth day of September. (2) *Subject to the express provisions of this Act as to special rates, all the provisions of this Act relating to the general rate shall apply to a special rate, except that the owner of any tithe or tithe rentcharge and the occupier* [of any woodlands, or[1]] *of any land covered with water or used as a canal or as a towing path for a canal or as a railway constructed under the powers or any Act of Parliament for public conveyance, and, until the date of the first new valuation, the occupier of any agricultural land, shall be liable to pay in respect of one fourth part only of the rateable value of the tithe, tithe rentcharge* [woodlands[1]], *or land." Further as to these provisions, see the works mentioned below.*[2]

SECT. 57. [*Relations between county councils and district councils in respect of public health functions.*]

(1) The council of a county may agree to contribute towards the expenditure incurred, whether before or after the commencement of this Act, by the council of a district wholly or partly within the county in the provision or maintenance of any sewers or sewage disposal works, or of a supply of water, or in the improvement of an existing supply of water, such sums as appear to them to be reasonable having regard to the resources of the district and the circumstances of the case.

(2) The council of any district may at any time by agreement with the council of the county relinquish in favour of the council of the county any of their functions relating to public health upon such terms and subject to such conditions, if any, as may be specified in the agreement, and the relinquishment may be made either for a specified term, or pending the rescission or variation of the agreement, and any agreement made under this subsection may apply with such modifications and adaptations, if any, as may be agreed any of the provisions of this Act relating to the transfer of property and liabilities and the transfer, superannuation and compensation of officers.

A copy of an agreement made under this subsection shall forthwith be sent to the Minister.

(3) Where it appears to the Minister that the council of any district wholly or partly within a county have made default in

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(1) Repealed by s. 137 and Sched. XII of the present Act.

(2) Davey's R. & V. Act, 1925, 1296Edition, at pp. 4–12; Konstam, same, 1927 Edition at pp. 22–40.

providing their district or any part thereof with a sewerage system or sewage disposal works or an adequate supply of water, or in discharging any other function relating to public health which it is their duty to discharge, the Minister may cause a local inquiry to be made into the matter, and—

(*a*) if after such inquiry the Minister is satisfied that there has been such default, he may make an order limiting a time for the discharge of the function by the council of the district; and

(*b*) if the function is not discharged by the time limited in the order, the Minister may by order transfer to the county council the function with respect to which default has been made either for a definite period or until he may otherwise direct, and the order may apply, with such modifications and adaptations, if any, as appear necessary or expedient, any of the provisions of this Act relating to the transfer, superannuation and compensation of officers and any of the provisions of section 63 of the Local Government Act, 1894.

(4) Sections 299 to 302 of the Public Health Act, 1875, shall cease to have effect as respects district councils.

Note.

SEWERAGE.—*For the functions of district councils in relation to the "provision or maintenance of sewers and sewerage disposal works," see the Public Health Act*, 1875,[1] *sects.* 4 (*definition of "sewer"*), 13 (*vesting of sewers*), 14 (*purchase of sewers, etc.*), 15 (*provision and repair of sewers*), 16 (*laying sewers*), 17 (*pollution from sewers*), 18 (*alteration and discontinuance of sewers*), 19 (*nuisance from sewers*), 20 (*map of sewerage system*), 21 (*regulating connections with sewers*), 22 (*agreements between private persons and local authorities as to use of sewers outside district*), 23 (*enforcing connection of existing houses with sewers or cesspools*), 24 (*alteration of drains connected with sewers*), 25 (*enforcing connection of new or rebuilt houses with sewers or cesspools*), 26 (*building over sewers*), 27 (*disposal works*), 28 (*agreements between local authorities as to use of sewers outside district*), 29 (*leasing, etc., of sewage farms*), *and* 30 (*supply of sewage*). *As to the construction by a local authority of sewage works outside its district, see also sects.* 32 *to* 34 *and* 285 *of the Act of* 1875, *as amended*

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(1) 38 & 39 Vict. c. 55, ss. 4, 13–30. See the numerous cases on these sections collected in "Glen's Public Health," 1925 Edition, at pp. 31–41, and 52–106.

by sect. 78 *of the Public Health Act,* 1925.[1] *The Public Health Acts Amendment Act,* 1890,[2] *contains the following sections which deal with sewers : Sects.* 16 *and* 17 (*certain matters not to be sent into sewers*), 18 (*making of communications with sewers by local authorities*),[3] *and* 19 ("*single private drains*").[4] *The only section in the Public Health Acts Amendment Act,* 1907, *which refers to sewers, is sect.* 38 (*condition of drains proposed to be connected with sewers*).[5] *The Public Health Act,* 1925,[6] *contains the following : Sect.* 36 (*amends remedy given by sect.* 25 *of the Act of* 1875 supra), 37 (*laying, in streets, drains to connect with sewers*), 38 (*replaces, where adopted, sect.* 18 *of Act of* 1890, supra), 39 (*alteration of drains connected with sewers*), 40 (*large sewers in private streets*), 41 (*prohibition of discharge of petrol or carbide into sewers*), *and* 78 *above mentioned.*

WATER SUPPLY.—*For the powers of local authorities* (a) *in relation to the supply of water, see sects.* 51 *to* 66 *of the Public Health Act,* 1875,[7] *and* (b) *as to the protection of water, see sects.* 68 *to* 70 *of the same Act.*[8]

COMPLAINTS TO MINISTER.—*For the cases on sections* 299 *to* 302 *of the Act of* 1875, *see the work mentioned below.*[9]

SECT. 58. [*Provisions as to medical officers of health.*]

(1) The council of every county shall, after consultation with the councils of districts wholly or partly within the county, formulate arrangements for securing, whether by means of a combination of districts or otherwise, that every medical officer of health subsequently appointed for a district shall be restricted by the terms of his employment from engaging in private practice as a medical practitioner.

(2) The county council shall, as soon as may be, send a copy of the instrument embodying the arrangements to the Minister and to the council of every such district, and every such council shall be at liberty to make representations thereon to the Minister.

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(1) 38 & 39 Vict. c. 55, ss. 32–34, 285; 15 & 16 Geo. V, c. 71, s. 78. See Glen's P.H. at pp. 106, 107, cclx.

(2) 54 & 55 Vict. c. 59, ss. 16–19.

(3) As to this, see *Grant* v. *Derwent* (C.A.), L.R. 1929, 1 Ch. 390; 27 L.G.R. 179; and ss. 37 and 38 of Act of 1925, *infra* (6).

(4) For the many and conflicting decisions on this section, see the cases collected in Glen's P.H. at pp. 851–856.

(5) 7 Edw. VII, c. 53, s. 38.

(6) 15 & 16 Geo. V, c. 71, ss. 36–41, Glen's P.H. at pp. ccxlvii–ccxlix.

(7) 38 & 39 Vict. c. 55, ss. 51–66. See the cases and incorporated Acts in Glen's P.H. at pp. 131–156.

(8) *Ibid.*, ss. 68–70. See Glen's P.H. at pp. 157–159.

(9) Glen's P.H. at pp. 741–746.

(3) If a county council within six months after being required to do so by the Minister fail to formulate such arrangements as aforesaid, the Minister after consulting the county council and the councils of all such districts may formulate any such arrangements as the county council might have formulated.

(4) Where such arrangements as aforesaid have been formulated, then, on a vacancy occurring in the office of medical officer of health for any such district, it shall be a term of the appointment of a person to fill the vacancy that he shall not engage in private practice as a medical practitioner :

Provided that, if upon application made to him by the council of the district in connection with any such proposed appointment the Minister, after considering the arrangements formulated and any representations which may be made to him by the county council or by the councils of other districts concerned, is satisfied that such a term cannot conveniently form part of the terms of the proposed appointment, he may dispense with the foregoing requirement as respects that appointment on such conditions as he may think fit.

SECT. 59. [*Qualifications of certain medical officers and health visitors.*]

(1) The Minister may make regulations prescribing the qualifications of medical officers and health visitors appointed by a local authority under the Maternity and Child Welfare Act, 1918,[1] the Public Health (Tuberculosis) Act, 1921,[2] or any regulations for the treatment of venereal disease made under the Public Health Acts, 1875 to 1926, and the Public Health (London) Act, 1891 ;[3] and no person shall be appointed as such medical officer or health visitor whose qualifications are not in accordance with the regulations.

(2) This section shall extend to the county of London.

SECT. 60. [*Maternity and child welfare services.*]

Where in any district any services under the Maternity and Child Welfare Act, 1918,[1] are being provided by a council who are not the local education authority for elementary education for the district, and the Minister, on representations being made to him by the council who are such local education authority for the district, is satisfied that the transfer of the services to the council who are such local education authority would conduce to the more efficient administration in the district of the function relating to public health and education, the Minister may, by order—

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(1) Set out in Appendix, *post*, p. 324. (2) Set out in Appendix, *post*, p. 328.

(3) See P.H. Act, 1875 (38 & 39 Vict. c. 55), s. 130 (Glen's P.H., p. 248); P.H. (London) Act, 1891 (54 & 55 Vict. c. 76), s. 113, Sched. I (Macmorran's P.H. (L.), pp. 219, 346); Public Health Act, 1896 (59 & 60 Vict. c. 19), s. 1 (Glen's P.H., p. 249); Public Health Act, 1904 (4 Edw. VII, c. 16), s. 1 (Glen's P.H., p. 249); Public Health (Prevention and Treatment of Disease) Act, 1913, s. 2 (Appendix, *post*, p. 329) ; Glen's P.H., p. 952); Venereal Disease Act, 1917 (7 & 8 Geo. V, c. 21), s. 1 (Glen's P.H., p. 953). For a list of the regulations, memoranda, and circulars dealing with venereal disease, see Glen's P.H., pp. 2413, 2414. See also Anthrax Prevention Act, 1919 (9 & 10 Geo. V, c. 23) in Glen's P.H., p. 954.

(*a*) withdraw his sanction to any arrangements made under the Maternity and Child Welfare Act, 1918, by the council who are providing the services, and

(*b*) provide for the transfer of the services to the council who are such local education authority, and any such order may apply with the necessary modifications any of the provisions of this Act relating to the transfer of property and liabilities and the transfer, superannuation and compensation of officers.

SECT. 61. [*Notification of births.*]

(1) The Minister may, if he thinks fit, make an order under proviso (*b*) of section 2 (4) of the Notification of Births Act, 1907, declaring that that Act shall take effect as if it had been adopted by the council of a district or by the council of a county, as the case may be, notwithstanding that no application has been made to him for that purpose.[1]

(2) Where an order has been made under the said proviso the Minister may at any time, if he is satisfied that it is expedient to do so, make a further order revoking the original order, and thereupon the county council or the district council, as the case may be, shall again become the authority for the purposes of the Notification of Births Act, 1907.

SECT. 62. [*Supervision of midwives.*]

(1) If the council of any district have established a maternity and child welfare committee and employ a medical officer of health who, by the terms of his appointment, is restricted from engaging in private practice, the council may apply to the Minister to be made the local supervising authority under the Midwives Acts, 1902 to 1926, and the Minister, if he is satisfied that the district council are in a position to discharge the whole of the

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(1) See the Acts of 1907 (7 Edw. VII, c. 40) and 1915 (5 & 6 Geo. V, c. 64), and the Notes thereon in "Glen's Public Health," 1925 Edition, at pp. 2206–2208.

functions of a local supervising authority under those Acts, may, by order, direct that the council shall become the local supervising authority for the district in place of the county council, and provide for the manner in which the expenses of the district council and the county council under those Acts are to be defrayed.[1]

(2) Before making an order under the last foregoing subsection, the Minister shall consult with the county council and shall, if requested by them, hold a local inquiry.

(3) Where an order has been made under subsection (1) of this section, the Minister may at any time, if he is satisfied that the functions of the local supervising authority should be retransferred to the county council, make a further order revoking the original order, and thereupon the county council shall again become the local supervising authority under the said Acts.

SECT. 63. [*Provision of hospital accommodation for infectious disease.*]

(1) For the purpose of securing the provision in every county of suitable means for the proper isolation and treatment of persons suffering from infectious disease, the council of the county shall, as soon as may be after the commencement of this Act, make a survey of the hospital accommodation for the treatment of infectious disease provided by the council and by the councils of any districts wholly or partly within the county.

(2) Upon the completion of the survey, the county council shall prepare, in consultation with the councils of all such districts and if necessary with the council of any county borough adjoining the county, and submit to the Minister for his approval, a scheme for the provision of adequate hospital accommodation for the treatment of infectious disease within the county.

(3) The scheme may provide—

(*a*) for the arrangements under which and the terms upon which accommodation in any existing hospital belonging to the council of a district shall be made available for the use of the inhabitants of the county other than those resident in the district;

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(1) The Maternity and Child Welfare Act, 1918, has been set out in the Appendix, *post*, p. 324. For the Midwives Acts of 1902 (2 Edw. VII, c.17) and 1918 (8 & 9 Geo. V, c. 43) and Notes thereon, see " Glen's Public Health," 1925 Edition, at pp. 2178–2185. These Acts were amended by the Midwives and Maternity Homes Act, 1926 (16 & 17 Geo. V, c. 32). On Aug. 16, 1926, the Minister of Health, issued a Circular on this Act, set out in 24 L.G.R. (Orders), 241. On Jan. 31, 1928, he issued a Circular on "Compensation to Midwives," set out in 26 L.G.R. (Orders), 8.

(*b*) for the provision by the county council or by the council of any district of new accommodation for the treatment of infectious disease;

(*c*) for embodying arrangements made between the county council or the council of any district and the council of any adjoining county borough for the reception of persons residing in the county borough into hospitals provided by the county council or district council, and for the reception of persons residing within the county into hospitals provided by the council of the county borough.

(4) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any representations with respect to the scheme which may be submitted to him by any council affected, may approve the scheme with or without modifications.

(5) If a county council fail to submit to the Minister a scheme under this section within six months after being required by the Minister to do so, the Minister may, after consulting the county council and the councils of all such districts, himself make a scheme for the purpose, and any scheme so made shall have effect as if it were a scheme submitted by the county council and approved by the Minister.

(6) In any case in which the Minister is satisfied that the council of a district have failed to provide accommodation in accordance with a scheme under this section, or have otherwise failed to discharge their functions under the scheme, the Minister, after giving to the council of the district and the county council an opportunity of being heard, may, if he thinks fit, by order, transfer to the county council the functions of the council of the district under the scheme, and the order may, for the purpose of enabling the county council to give effect thereto, apply, with such modifications and adaptations, if any, as appear necessary or expedient, any of the provisions of this Act relating to the transfer, superannuation and compensation of officers and any of the provisions of section 63 of the Local Government Act, 1894.

(7) For the purposes of this section—

(*a*) references to councils of districts shall be construed as including references to combinations of such councils; and

(*b*) the expression "infectious disease" shall not include tuberculosis or venereal disease.

Note.

HOSPITALS.—*Further as to hospitals, see sects.* 13 *and* 14 *and Note. Sect.* 63 *of the Act of* 1894 (*as to county councils acquiring powers of district councils*) *will be found in the Appendix.*[1] *As to tuberculosis and venereal disease, see footnotes to sect.* 59. *As to schemes under the present Act generally, see sect.* 131.

SECT. 64. [*Power of London County Council to transfer or delegate functions to metropolitan borough councils.*]

(1) The Minister may, if he thinks fit, on the application of the London County Council or of any association or committee which is in his opinion representative of the metropolitan borough councils, by order provide—

(*a*) for the transfer to all the metropolitan borough councils of any functions exercisable by the county council other than functions transferred to them under Part I of this Act; or

(*b*) for the exercise by any of the metropolitan borough councils as agents for the county council of any functions of the county council other than functions transferred as aforesaid.

(2) Before making an order under this section, the Minister shall, in the case of an application made by the London County Council, consult such association or committee as aforesaid, and in the case of an application made by the association or committee consult the London County Council.

(3) An order under this section may, if the common council of the City of London consent, apply to that council in like manner as it applies to metropolitan borough councils.

(4) An order under this section shall be laid before Parliament as soon as may be after it is made.

SECT. 65. [*Saving for municipal corporations and charters.*]

Save in so far as may be necessary to give effect to any alteration or definition of boundaries made thereunder, nothing in this Part of this Act shall prejudicially alter or affect the powers, rights, privileges or immunities of any municipal corporation or the operation of any municipal charter.

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(1) *Post*, p. 311.

SECT. 66. [*Provisions as to orders and extent of Part IV.*]

(1) Sections 59 and 62 of the Local Government Act, 1888, shall apply as if an order made under this Part of this Act were an order made under that Act.[1]

(2) An order made under this Part of this Act shall not be construed as affecting the limits of any parliamentary county or parliamentary borough.

(3) Save as therein otherwise expressly provided, this Part of this Act shall not extend to the county of London.[2]

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(1) These sections are set out in the Appendix, *post*, pp. 289, 290.
(2) For references to London, see ss. 48 (3), 51 (2), and 64.

PART V.

RATING AND VALUATION.

Relief from Rates.

SECT. 67. [*Total exemption of agricultural land and buildings from rates.*]

(1) No person shall, in respect of any period beginning on or after the appointed day, be liable to pay rates in respect of any agricultural land or agricultural buildings or be deemed to be in occupation thereof for rating purposes, and notwithstanding anything in the principal Act, or in the Rating and Valuation (Apportionment) Act, 1928, no such land or buildings shall be included in any rate made in respect of a period beginning on or after that date.

(2) For the purposes of valuation lists in force at the appointed day, agricultural land and agricultural buildings shall be deemed to have no rateable value, and, notwithstanding anything in the enactments hereinbefore in this section mentioned, no particulars with respect to such land or buildings shall be included in any subsequent valuation list.

Note.

RATING RELIEF.—*For a summary of Part V of the present Act, see the Introduction.*[1] *Most of the Act has some effect on rates—see Index under "Rates." Sect.* 84 *defines "the principal Act," for the purposes of Part V, as (outside London) the Rating and Valuation Act,* 1925, *as amended by any subsequent enactment, and (in London) the Valuation (Metropolis) Act,* 1869, *as similarly amended; and provides that these Acts and Part V, and the Rating and Valuation (Apportionment) Act,* 1928, *are to be "construed as one" (for the effect of which see Note to sect.* 84). *For works on these Acts, see those mentioned below.*[2] *Portions of them are set out in the Notes to the present Act and in the Appendix—see Table of Statutes.*

The "appointed day," for the purposes of Part V, is October 1, 1929*—see sect.* 134, *which also defines "drainage rate," "parish rate," "rate," "rating area," "separately rated area," "special rate," and "water rate."*

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(1) *Ante*, pp. 9–13.

(2) Davey's R. & V. Act, 1925, 1926 Edition; Konstam, same, 1927 Edition; Konstam's R. & V. (Apportionment) Act, 1928, 1928 Edition. For rating generally, see "Davey on Rating," 1924 Edition, and "Ryde on Rating," 1925 Edition.

AGRICULTURAL HEREDITAMENTS.—*By sect.* 2 *of the Rating and Valuation* (*Apportionment*) *Act*, 1928,[1] "(1) *In this Act the expression 'agricultural hereditament' means any hereditament being agricultural land or agricultural buildings.* (2) *In this Act the following expressions have the meanings hereby respectively assigned to them:—'Agricultural land' means any land used as arable meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one quarter of an acre used for the purpose of poultry farming, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act*, 1922,[2] *but does not include land occupied together with a house as a park, gardens* (*other than as aforesaid*), *pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a race-course; and for the purpose of this definition the expression 'cottage garden' means a garden attached to a house occupied as a dwelling by a person of the labouring classes: 'Agricultural building' means buildings* (*other than dwelling houses*) *occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon.*"

As to the rating of agricultural dwellings, see sect. 72. *As to rebates in respect of "agricultural selected traffic," see Part II of Sched. XI. As to "adaptations" relating to agricultural land, see Sched. X* (17), (20). *See also the Agricultural Rates Act*, 1929, *set out in the Appendix.*[3]

SECT. 68. [*Relief from rates in respect of industrial and freight transport hereditaments.*]

(1) The rateable value of industrial hereditaments and freight transport hereditaments shall, for the purposes of valuation lists in force at the appointed day as from that day, and for the purposes of subsequent valuation lists, be ascertained as follows:—

(*a*) in the case of an industrial hereditament or of a freight transport hereditament shown in a valuation list as being occupied and used wholly for industrial purposes or wholly for transport purposes, as the case may be, the rateable value of the hereditament shall, subject as hereinafter provided, be taken to be one-quarter of the net annual value thereof :

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(1) 18 & 19 Geo. V, c. 44, s. 2. For text of this Act, see Appendix, *post*, p. 360.

(2) That is, under 12 & 13 Geo. V, c. 51, s. 22 (1), "allotments not exceeding 40 poles in extent and wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family."

(3) *Post*, p. 365.

(*b*) in the case of an industrial hereditament or of a freight transport hereditament shown in a valuation list as being occupied and used partly for industrial purposes or partly for transport purposes, as the case may be, the rateable value of the hereditament shall, subject as hereinafter provided, be taken to be an amount equal to one-quarter of the net annual value shown in the list as apportioned to the occupation and user of the hereditament for industrial purposes or for transport purposes, as the case may be, together with the whole of the net annual value so shown as apportioned to the occupation and user of the hereditament for other purposes :

Provided that, as respects any industrial or freight transport hereditament or any part of such a hereditament, elsewhere than in the county of London, whereof the rateable value would, if it had continued to be ascertained under the provisions of paragraph (*c*) of subsection (1) of section 22 of the Rating and Valuation Act, 1925, or of any scheme made under section 64 of that Act, have been taken to be the amount produced by making any deduction from the net annual value, references in the foregoing provisions of this section to "net annual value" shall be construed as references to the amount produced by making from the net annual value the like deduction as would have been made under the said provisions.

(2) Where before the appointed day a rate has been made for any rating area in respect of a period beginning before, but terminating on or after, that day, the amount of the rate payable in respect of the occupation of an industrial or freight transport hereditament shall be calculated as if the rate made had been two rates, the first being a rate in respect of the part of the period terminating on the day preceding the appointed day, and the second being a rate in respect of the remainder of the period, and as if the amount in the pound of the rate made had been apportioned between those two rates, in the case of a rate made in respect of a year in equal parts, and, subject as hereinafter provided, in any other case in the proportion which the number of days in the first part of the period bears to the number of days in the remainder of the period :

Provided that, if in any rating area the date of the first new valuation under the Rating and Valuation Act, 1925, has been postponed by order of the Minister until a date later than the first day of April, 1929, and by reason of the postponement the period in respect of which any such rate as aforesaid was made does not coincide with the period or periods by reference to which the estimates for the rate were prepared, the amount in the pound of the rate shall be apportioned between the first part of the period in respect of which the rate was made and the remainder thereof by the rating authority with the approval of the Minister, having regard to the period or periods for which the said estimates were prepared, and the rating authority shall, as soon as may be after the making of the rate, issue a certificate showing the apportionment so made.

(3) Any person shall be entitled to recover from the rating authority any sum paid by him in excess of the amount properly chargeable against him in accordance with the provisions of the last foregoing subsection.

Note.

INDUSTRIAL AND FREIGHT TRANSPORT HEREDITAMENTS.—*For a summary of the provisions relating to these hereditaments, see the Introduction.*[1]

"*Industrial hereditaments*" *are thus defined in sect.* 3 *of the Rating and Valuation* (*Apportionment*) *Act*, 1928 :—[2]

(1) *In this Act the expression* "*industrial hereditament*" *means a hereditament* (*not being a freight-transport hereditament*) *occupied and used as a mine or mineral railway or, subject as hereinafter provided, as a factory or workshop :*

Provided that the expression industrial hereditament does not include a hereditament occupied and used as a factory or workshop if it is primarily occupied and used for the following purposes or for any combination of such purposes, that is to say—

(a) *the purposes of a dwelling-house ;*

(b) *the purposes of a retail shop ;*

(c) *the purposes of distributive wholesale business ;*

(d) *purposes of storage ;*

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(1) *Ante*, pp. 9–12.

(2) 18 & 19 Geo. V, c. 44, s. 3. See Konstam's R. & V. (App.) Act, 1928, at pp. 35–55. The text of the Act of 1928, other than these definition sections, and the temporary Sched. I, will be found in the Appendix, *post*, p. 360.

(e) *the purposes of a public supply undertaking ;*

(f) *any other purposes, whether or not similar to any of the foregoing, which are not those of a factory or workshop.*

(2) *For the purposes of this Act* [(a) *A hereditament shall not be deemed not to be occupied and used as a factory or workshop by reason only of the fact that the owner or occupier of the hereditament is the only person working therein or that no other person working therein is in his employment ; and* (b)][1] *any place used by the occupier for the housing or maintenance of his road vehicles or as stables shall, notwithstanding that it is situate within the close, curtilage or precincts forming a factory or workshop and used in connection therewith, be deemed not to form part of the factory or workshop, but save as aforesaid, the expressions "factory" and "workshop" have respectively the same meanings as in the Factory and Workshop Acts,* 1901 *to* 1920.[2]

(3) *Where two or more properties within the same curtilage, or contiguous to one another, are in the same occupation and, though treated as two or more hereditaments for the purposes of rating and valuation by reason of being situate in different parishes or of having been valued at different times or for any other reason, are used as parts of a single mine, mineral railway, factory, or workshop, then, for the purposes of determining whether the several hereditaments are industrial hereditaments they shall be treated as if they formed parts of a single hereditament comprising all such hereditaments.*

(4) *In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—*

"Mine" has the meaning assigned to it by sect. 122 *of the Coal Mines Act,* 1911, *or sect.* 41 *of the Metalliferous Mines Regulation Act,* 1872, *as amended by sect.* 19 (2) *of the Mining Industry Act,* 1920, *as the case may require, but also includes any premises, place, or works, whether below ground or above ground, primarily occupied and used for the purpose of draining or otherwise protecting from damage any mine or group of mines or occupied and*

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(1) Added by s. 69 of the present Act.

(2) For definitions of "factory," "textile factory," "non-textile factory," "tenement factory," and "workshop," see Factory Act, 1901 (1 Edw. VII, c. 22), s. 149, and the cases thereon collected in "Glen's Public Health," 1925 Edition, at pp. 2163–2165. For definitions of "domestic factory" and "domestic workshop," see s. 115 of that Act, *ibid.*, at p. 2155. As to laundries as "non-textile factories," see Act of 1907 (7 Edw. VII, c. 39), s. 1, *ibid.*, at p. 2171. The Act of 1920 (10 & 11 Geo. V, c. 62), deals with lead processes.

used for pumping or raising brine for the purpose of manufacture or sale from shafts, wells, springs, or mines:[1]

"Mineral railway" means a railway, tramway, or ropeway used primarily for the transport of minerals gotten from a mine, or from two or more mines, to a freight-transport hereditament or between any two such hereditaments or to any dock not being a freight-transport hereditament and in the latter case includes also such dock:

"Public supply undertaking" means any undertaking primarily carried on for the supply of gas, water, electricity or hydraulic power for public purposes, or to members of the public, or to any one or more undertakings carried on under any special Act or Order having the force of an Act:

"Retail shop" includes any premises of a similar character where retail trade or business (including repair work) is carried on.

"Freight transport hereditaments" are thus defined in sect. 5 *of the same Act:—*[2]

(1) *In this Act the expression "Freight-transport hereditament" means all or any of the following hereditaments:—*

(a) *A hereditament occupied and used wholly or partly for railway transport purposes as part of—*

(i) *a railway undertaking carried on by a railway company, for which a schedule of standard charges has been settled under the Railways Act,* 1921, *or to which such a schedule is for the time being applied under sect.* 33 *of that Act,*[3] *being an undertaking whereof the railway is used for the conveyance of merchandise otherwise than by passenger train or carriage; and*

(ii) *a light railway undertaking carried on by a light railway company, being an undertaking whereof the*

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(1) By the Act of 1911 (1 & 2 Geo. V, c. 50), s. 122, "the mines to which this Act applies are mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay"—see cases in "Glen's Public Health," at p. 177. By the Act of 1872 (35 & 36 Vict. c. 77), s. 41, "the term 'mine' includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level, and inclined plane, and belonging to the mine"; and "the term 'shaft' includes pit." By the Act of 1920 (10 & 11 Geo. V, c. 50), s. 19 (2), "for the purposes of the Metalliferous Mines Regulation Acts, 1872 and 1875" (38 & 39 Vict. c. 39), "the expression 'mine' does not include any part of the premises on which any manufacturing process, other than a process ancillary to the getting, dressing, or preparation for the sale of minerals is carried on."

(2) 18 & 19 Geo. V, c. 44, s. 5. See Konstam's R. & V. (App.) Act, 1928, at pp. 60–71.

(3) By 11 & 12 Geo. V, c. 55, s. 32, each amalgamated company was required to charge the standard charges fixed by the Rates Tribunal, and by s. 33 these charges could be applied to non-amalgamated companies.

light railway is used as a public railway for the conveyance of merchandise otherwise than by passenger train or carriage : [1]

(b) *A hereditament occupied and used wholly or partly for canal transport purposes as part of a canal undertaking whereof the canal is used for the conveyance of merchandise :*

(c) *A hereditament occupied and used wholly or partly for dock purposes as part of a dock undertaking being an undertaking whereof a substantial proportion of the volume of business is concerned with the shipping and unshipping of merchandise not belonging to or intended for the use of the undertakers :*

Provided that a hereditament primarily occupied and used as offices for, or for purposes ancillary to, the general direction and management of a railway, canal or dock undertaking, shall not be deemed a freight-transport hereditament.

(2) *In this Act the following expressions have the meanings hereby respectively assigned to them :—*

"Transport purposes" means all or any of the following purposes :—

(a) *"railway transport purposes," that is to say, all purposes connected with the conveyance or transport by railway of passengers and their luggage, or of carriages, parcels or merchandise, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking ;*

(b) *"canal transport purposes," that is to say, all purposes connected with the conveyance or transport by canal, or by a railway forming part of a canal undertaking, of passengers and their luggage, or of carriages, parcels or merchandise, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking ;*

(c) *"dock purposes," that is to say, all purposes connected with the shipping or unshipping at a dock of passengers and their luggage, or of carriages, parcels or merchandise, or the conveyance or transport thereof by a railway forming part of a dock undertaking, including*

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(1) For the Light Railways Acts, 1896 (59 & 60 Vict. c. 48), and 1912 (2 & 3 Geo. V, c. 19) as amended by the Act of 1921, and the Rules of 1913 and 1914, see "Glen's Public Health," 1925 Edition, at pp. 1369–1380.

the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking, or connected with the provision of accommodation for vessels and their stores, equipment and tackle (including fishing tackle), whether for purposes of repair or otherwise.

(3) *In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—*

"Canal undertaking" includes any inland navigation undertaking comprising as part thereof an inland navigation used for the conveyance of merchandise, and "canal" in relation to such an undertaking shall be construed as including an inland navigation :

"Dock" includes any harbour, wharf, pier, jetty or other works in or at which vessels can ship or un-ship merchandise or passengers not being a pier or jetty primarily used for recreation :

"Dock undertaking" means an undertaking carried on by a dock authority, but also includes any other undertaking comprising as part thereof a dock in so far only as its business is carried on at and in connection with that dock :

"Dock authority" means any person or body of persons, whether incorporated or not, who are authorised to construct or are owners or lessees of any dock authorised by or under any Act :

"Light railway" includes a tramroad authorised by any special Act, but does not include any light railway laid wholly or mainly along a public carriageway and used wholly or mainly for the carriage of passengers :

"Light railway company" includes any person or body of persons, whether incorporated or not, who are authorised to construct or are owners or lessees of any light railway authorised by or under any Act or who are working a light railway under any working agreement :

"Merchandise" has the same meaning as that assigned to it by section 57 *of the Railways Act,* 1921 *:*[1]

"Railway company" has the same meaning as that

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(1) By 11 & 12 Geo. V, c. 55, s. 57, "the expression 'merchandise' includes goods, minerals, live stock, and animals of all descriptions."

assigned to it by section 85 of the Railways Act, 1921:[1]

"Vessel" includes any ship or boat, or any other description of vessel used in navigation.

For further definitions, see Sched. XI, Part I, post.

RATEABLE VALUE.—*As to the proviso to subsect.* (1) *of the present section, see sects.* 22 *and* 64 *of the Act of* 1925, *and the copious notes thereto, in the works mentioned below.*[2] *For their general effect, see the Introduction.*[3] *Sect.* 22 (2) *is partly repealed by sect.* 137 *of the present Act, see Note thereto.*

FIRST VALUATION LIST.—*As to the proviso to subsect.* (2) *of the present section, under sect.* 19 (1) (*a*) *of the Act of* 1925,[4] *the Minister could substitute October* 1 *for April* 1 *as the date on which the first valuation list was to come into force.*

SECT. 69. [*Amendment of* 18 *&* 19 *Geo. V, c.* 44, *s.* 3 (2).][5]

SECT. 70. [*Amendment of valuation lists on or after appointed day and making of subsequent lists.*]

(1) As from the appointed day, the fact of any hereditament in the county of London having [in the course of any year[6]] become or ceased to be an agricultural, industrial or freight transport hereditament shall, for the purposes of section 47 of the Valuation (Metropolis) Act, 1869, be a ground for making and sending to the assessment committee a provisional list and for making a requisition for such a list to be made and sent, and in relation to any provisional list or requisition made on such ground as aforesaid that Act shall apply accordingly, subject to the following modifications, that is to say:—

(*a*) a provisional list or requisition therefor made on the ground that a hereditament has become an agricultural, industrial or freight transport hereditament shall contain such particulars as may be prescribed; and

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(1) By 11 & 12 Geo. V, c. 55, s. 85, "for the purposes of this Act, the expression 'railway company' includes a joint committee of two or more railway companies and the owners of any railway to which at the passing of this Act" (August 19, 1921) "a railways rates and charges order within the meaning of Part III of this Act applies, and, where a railway is owned by a joint committee of two or more railway companies, it shall, for the purposes of this Act, be deemed to be jointly owned by those companies." By s. 57, "the expression 'railway rates and charges orders' means the provisional orders fixing maximum rates and charges applicable to the several railway companies made and confirmed by Parliament in pursuance of s. 24 of the Railway and Canal Traffic Act, 1888" (51 & 52 Vict. c. 25).

(2) 15 & 16 Geo. V, c. 90, ss. 22, 64. Davey's R. & V. Act, 1925, 1926 Edition, at pp. 48–51, 107–111. Konstam's R. & V. Act, 1925, 1927 Edition, at pp. 96–106, 192–196.

(3) *Ante*, p. 10.

(4) 15 & 16 Geo. V, c. 90, s. 19 (1) (*a*).

(5) Incorporated in quotation of that subsection, *ante*, p. 130.

(6) See Sched. IX, Part II, 2 (1) (*a*), of the present Act, *post*, p. 243.

(*b*) a provisional list shall not be made on the ground that a hereditament has become an agricultural, industrial or freight transport hereditament unless a requisition therefor has been made by the owner or occupier of the hereditament.

(2) As from the appointed day, no proposal for the amendment of a valuation list on the ground that a hereditament ought to be shown therein as an industrial or freight transport hereditament or ought to be omitted therefrom (or, while the first new valuation list is in force, shown therein) as being an agricultural hereditament shall be made under section 37 of the Rating and Valuation Act, 1925, by any person except the owner or occupier of the hereditament, and every such proposal shall contain such particulars as may be prescribed.

(3) Section 37 (10) of the Rating and Valuation Act, 1925 (which determines the date as from which amendments in valuation lists made under that section are to have effect), shall be amended by the addition thereto of the following proviso, that is to say :—

Provided also that in the case of an amendment made on or after the first day of October, 1929, by reason of any hereditament having become or ceased to be an agricultural, industrial or freight transport hereditament, the amendment shall have effect only as from the date when the hereditament became or ceased to be such a hereditament.

(4) Notwithstanding anything in the Rating and Valuation (Apportionment) Act, 1928, no hereditament shall, for the purposes of any valuation list which will come into force after the appointed day, be treated as an agricultural, industrial or freight transport hereditament unless it was so treated for the purposes of the last preceding valuation list except upon a claim that it ought to be so treated being made to the rating authority by the owner or occupier of the hereditament in the prescribed form, which shall be supplied by the rating authority on the demand of the owner or occupier of any hereditament in their area.

Note.

PROVISIONAL LISTS.—*As to subsect.* (1) *of the present section, for* *sect.* 47 *of the Act of* 1869,[1] *and notes on provisional lists in London,*[2] *see the work mentioned below.*

REVISION OF CURRENT LISTS.—*As to subsects.* (2) *and* (3) *of the present section, and the amendment of current valuation lists under sect.* 37 *of the Act of* 1925,[3] *see the works mentioned below. See also the Agricultural Rates Act,* 1929.[4]

CLAIMS.—*As to subsect.* (4) *of the present section, and claims that hereditaments should be treated as agricultural or industrial or freight transport, see the enactments of the Act of* 1928 *mentioned in the footnote.*[5]

SECT. 71. [*Amendment of* 15 *&* 16 *Geo.* 5, *c.* 90, *s.* 11.]

It shall not be necessary for any rating authority in defining by resolution the class of hereditaments whereof the owners are to be rated instead of the occupiers to define the class by reference to the interval at which rent from time to time becomes payable or is collected, and accordingly the following amendments shall be made in section 11 (1) of the Rating and Valuation Act, 1925,[6] that is to say, after the words "and also" there shall be therein inserted the words "where the rating authority so decide," and in the proviso to that subsection the words "the rent of which becomes payable or is collected at quarterly or any longer intervals or" shall cease to have effect.

Consequential Provisions.

SECT. 72. [*Valuation of agricultural dwelling-houses.*]

As from the first day of April, 1930, the gross value for rating purposes of a house occupied in connection with agricultural land and used as the dwelling-house of a person who—

(*a*) is primarily engaged in carrying on or directing agricultural operations on that land; or

(*b*) is employed in agricultural operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed,

shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid.[1]

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(1) 32 & 33 Vict. c. 67, s. 47. "Ryde on Rating," 1925 Edition, at p. 926.

(2) *Ibid.*, at pp. 814–825.

(3) 15 & 16 Geo. V, c. 90, s. 37. Davy's R. & V. Act, 1925, at pp. 75–80; Konstam's, same, at pp. 146–154. See also amendment of s. 37 in R. & V. Act, 1928 (18 & 19 Geo. V c. 8), s. 4 (2).

(4) Set out in Appendix, *post*, p. 365.

(5) Namely, s. 1 (3), and Sched. I, see Appendix, *post*, p. 361, and Konstam's R. & V. (App.) Act, 1928, at pp. 18, 93–118.

(6) 15 & 16 Geo. V, c. 90, s. 11 (1), as to "rating of, and collection of rates by, owners." See Konstam's R. & V. Act, 1925, 1927 Edition at pp. 62–71; Davey's, same, 1926 Edition, at pp. 26–31.

SECT. 73. [*Deductions from inclusive rents of industrial hereditaments in respect of rate relief.*]

(1) Where any rates in respect of an industrial hereditament occupied by a tenant are, whether by agreement or otherwise, payable by the landlord, then, so long as under any contract made before the commencement of this Act there is payable by the tenant in respect of the hereditament rent inclusive of those rates, the landlord shall, as from the appointed day, be liable to pay to the tenant or allow by way of deduction from his rent a sum equal to the difference between every amount payable by the landlord by way of those rates, after deducting any allowance, commission, abatement, or deduction granted to him by the rating authority, and the amount which would have been so payable at the rate in the pound current for the time being if the rateable value of the hereditament had been equivalent to the net annual value thereof.

(2) Where any part of any premises for the time being assessed as an industrial hereditament is let out to a tenant, that part shall, notwithstanding that it is not separately assessed for rating purposes, be deemed for the purposes of this section to be a separate hereditament, and the amount of the sums payable under this section by the landlord to the tenant of that part in respect of any rate or instalment of a rate becoming due before it is assessed as a separate hereditament shall, on the application either of the landlord or of the tenant, be certified by the rating authority, and their certificate shall be final and conclusive.

SECT. 74. [*Removal of limits of borrowing powers of local authorities.*]

(1) So much of any enactment as imposes any limit on the borrowing powers of any local authority by reference to the value for rating purposes of hereditaments within their area shall, as from the appointed day, cease to have effect.

(2) Paragraph (3) of section 234 of the Public Health Act, 1875 (which, subject to the suspension thereof by the Local Authorities (Emergency Provisions) Acts, 1923 to 1928, prohibits the Minister

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(1) Agricultural "buildings," which are exempt, are defined so as to exclude "dwelling-houses," see Note to s. 67, *ante*, p. 127.

from sanctioning a loan in certain cases until one of his inspectors has held a local inquiry and reported to the Minister), is hereby repealed as from the appointed day.

Note.

BORROWING POWERS.—*As to subsect.* (1) *of the present section, sect.* 234 (2) *of the Public Health Act,*1875,[1] *provided that "the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed."*

As to subsect. (2) *of the present section, by sect.* 234 (3) *of the Act of* 1875,[2] *substituting Minister of Health for Local Government Board, "Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the [Minister of Health] shall not give [his] sanction to such loan until one of [his] inspectors has held a local inquiry and reported to the said [Minister]."*

SECT. 75. [*Adaptation of enactments imposing limits on expenditure of local authorities.*]

(1) Subject as hereinafter provided, any provision of any enactment imposing a limit upon the expenditure of a local authority for any purpose in any year by reference to any specified rate poundage shall, as from the appointed day, have effect as if for the limit thereby imposed there were substituted such a limit as would be imposed if the specified rate poundage were increased by thirty-three and one-third per cent., or such higher percentage as the Minister may by order in any special case allow.

(2) An order under this section shall be laid before Parliament as soon as may be after it is made.

(3) For the purposes of this section—

(*a*) a provision shall be deemed to impose a limit upon the expenditure of a local authority by reference to a specified rate poundage, if the effect of the provision is that the expenditure is—

(i) not to involve a rate of or exceeding a specified sum in the pound; or

(ii) not to exceed the amount which would be produced by a rate of a specified sum in the pound, whether or not the expenditure is to be defrayed or the amount raised out of rates;

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(1) 38 & 39 Vict. c. 55, s. 234 (2).

(2) *Ibid.*, s. 234 (3). For the remainder of this section, see Appendix, *post*, p. 284.

and any sum so specified as aforesaid is in this section referred to as a "specified rate poundage":

(*b*) a provision that if the expenditure of a local authority exceeds in any year any specified rate poundage any functions of the authority are to cease or be suspended, shall be deemed to impose a limit upon the expenditure of the authority.

Note.

LIMITS ON EXPENDITURE.—*The following enactments contain limits on expenditure by specified rate poundages:—As to urban and rural authorities, Public Health Acts Amendment Act*, 1907, *s.* 76 (3),[1] *on bands in public parks, penny rate; Public Health Act*, 1925, *s.* 56 (3),[2] *on bands and concerts in public parks, penny rate, or, with approval of Minister, twopenny rate; Public Libraries Act*, 1919, *sect.* 4 (1)[3], *on public libraries, such rate poundage as may be fixed by voluntary resolution; and Public Health Act*, 1925, *sect.* 64 (2),[4] *on subscriptions to hospitals, penny rate. As to parish councils, Local Government Act*, 1894, *s.* 11 (1) (3)[5], *all expenses, threepenny rate, or, with consent of parish meeting, sixpenny rate. As to parish meetings, Local Government Act*, 1894, *sect.* 19 (9),[6] *sixpenny rate.*

The limitation on expenditure imposed by sect. 16 (1) *of the Allotments Act*, 1922,[7] *was a reasonable expectation of recoupment out of letting charges. This was altered, in the case of borough and urban district councils only, to a penny rate by the Allotments Act*, 1925;[8] *so that, in the case of these councils, the limitation has gone, but in the case of rural district councils and parish councils the other limitation remains.*

SECT. 76. [*Adaptation of enactments relating to the adjustment of parochial balances.*]

If, as respects any parish, the period for the making of parochial adjustments limited by paragraph 5 of the Seventh Schedule to the Rating and Valuation Act, 1925, has been extended in accordance with the provisions of that paragraph, the sum, if any, remaining due on the first day of April, 1930, from that parish to the rating authority in respect of any such adjustment as aforesaid, shall be taken to be such sum as may be certified by the district auditor to be such part of the amount actually so due as bears to that amount the same proportion as the reduced rateable value of the parish bears to the unreduced rateable value thereof.

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(1) 7 Edw. VII, c. 53, s. 76 (3).

(2) 15 & 16 Geo. V, v. 71, s. 56 (3).

(3) 9 & 10 Geo. V, c. 93, s. 4 (1).

(4) 15 & 16 Geo. V, c. 71, s. 64 (2).

(5) 56 & 57 Vict. c. 73, s. 11 (1) (3).

(6) *Ibid.*, s. 19 (9).

(7) 12 & 13 Geo. V, c. 51, s. 16 (1).

(8) 15 & 16 Geo. V, c. 61, s. 4.

Note.

ADJUSTMENT OF PAROCHIAL BALANCES.—*The period fixed by Sched. VII,* 5 (1) *of the Rating and Valuation Act,* 1925,[1] *was three years from April* 1, 1927, *or "such further period as the Minister of Health might by order direct." "Certified," "reduced rateable value," and "unreduced rateable value" are defined by sect.* 134 *of the present Act.*

SECT. 77. [*Adaptation of enactments relating to water rates.*]

(1) Any provision of any enactment directing that the amount of any water rate shall or may be determined by reference to the rateable value of any property as appearing in the valuation list for the time being in force, shall, as from the appointed day, have effect as if for any reference to that value there were therein substituted a reference to the net annual value as so appearing.

(2) Where by any enactment, including this section, the amount of any water rate is to be determined by reference to the gross value or the net annual value of any property as appearing in the valuation list for the time being in force, then, if the value referred to does not appear in the valuation list, it shall, as from the appointed day, be determined in the event of any dispute by two justices of the peace in like manner as disputes are determined under section 68 of the Waterworks Clauses Act, 1847.

Note.

WATER RATES.—*Sect.* 56 *of the Public Health Act,* 1875,[2] *gives local authorities supplying water to any premises power to charge water rates "to be assessed on the net annual value of the premises ascertained in the manner by this Act prescribed with respect to general district rates." By sect.* 211 (1) *of that Act,*[3] *general district rates are to be "assessed on the full net annual value" in the rate books, and, by sect.* 4,[4] *"the full net annual value shall be taken*

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(1) 15 & 16 Geo. V, c. 90, Sched. VII, 5 (1). See Davey's R. & V. Act, 1925, 1926 Edition, at p. 136.

(2) 38 & 39 Vict. c. 55, s. 56.

(3) *Ibid.*, s. 211 (1).

(4) *Ibid.*, s. 4, definition of "rackrent."

to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent." Sect. 68 *of the Waterworks Clauses Act,* 1847,[1] *makes water rates "payable according to the annual value of the tenement supplied with water," and provides that "if any dispute arise as to such value the same shall be determined by two justices," that is to say, by a court of summary jurisdiction—see second proviso to sect.* 57 *of the Public Health Act,* 1875.[2] *This remedy was held to be "exclusive."*[3] *See also sect.* 8 *of the Metropolitan Water Board (Charges) Act* 1907.[4]

"Water rate" is defined in sect. 134 *of the present Act.*

SECT. 78. [*Adaptation of enactments relating to drainage rates.*]

(1) Any provision of any enactment directing that the amount of any drainage rate shall be determined by reference to the value for rating purposes of any property as appearing in the valuation list for the time being in force, shall, as from the appointed day, have effect as if for any reference to that value there were therein substituted a reference to the gross annual value for income tax purposes.

(2) Any apportionment of the gross annual value of any property for income tax purposes which may be necessary for the purpose of determining in manner aforesaid the amount of any such drainage rate shall be made by the person or body of persons having power to levy the drainage rate, or, in the event of any dispute, by a court of summary jurisdiction.

(3) Where by any enactment, including this section, the amount of any drainage rate is to be determined by reference to the gross annual value of any property for income tax purposes, then, if the property is not assessed for income tax purposes under Schedule A of the Income Tax Act, 1918,[5] as amended by any subsequent enactment, the value thereof shall, as from the appointed day, be determined, in the event of any dispute, by a court of summary jurisdiction.

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(1) 10 Vict. c. 17, s. 68. Incorporated with P.H. Act, 1875, by s. 57.

(2) 38 & 39 Vict. c. 55, s. 57.

(3) *New River Co.* v. *Mather*, 1875, L.R. 10 C.P. 442; 44 L.J.M.C. 105, 32 L.T. 658; 39 J.P. 614.

(4) 7 Edw. VII, c. clxxi, s. 8. Here the expression is "rateable value."

(5) 8 & 9 Geo. V c. 50, Sched. A.

Note.

DRAINAGE RATES.—*The expression "drainage rate" is defined by sect.* 134. *Sect.* 4 (1) *of the Land Drainage Act,* 1918,[1] *provides that "the powers of a commission of sewers or of a drainage board constituted under the principal Act or this Act shall include, and shall be deemed always to have included, powers of levying drainage rates on the basis of acreage or on the basis of annual value of the lands liable to be rated." The "principal Act" is the Land Drainage Act,* 1861.[2] *As to these Acts, see the works mentioned below.*[3]

GROSS VALUE FOR INCOME TAX.—*The expression "gross annual value for income tax purposes" is defined in sect.* 134. *For works on this tax, see those mentioned below.*[4]

SECT. 79. [*Adaptation of enactments as to qualifications of jurors and special jurors.*]

(1) For the purposes of determining the qualification of a juror or special juror the rateable value of any property shall, as from the appointed day, be taken to be the net annual value thereof as appearing in the valuation list for the time being in force, or, if the property is not included in that list, the net annual value thereof for income tax purposes.

(2) Any apportionment of the net annual value of any property for income tax purposes which may be necessary for the purpose of determining in manner aforesaid the qualification of a juror or special juror shall be made by the registration officer whose duty it is to mark in the electors' lists the names of persons so qualified in accordance with the provisions of the Juries Act, 1922, and where any person claiming that he ought not to have been so marked as a juror or as a special juror applies to a court of summary jurisdiction in accordance with the provisions of section 1 of that Act, the powers of the court shall include power to revise any such apportionment, and the provisions of that section (including the provision as to the power of the Lord Chancellor to make rules) shall have effect accordingly.

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(1) 8 & 9 Geo. V, c. 17, s. 4 (1).

(2) 24 & 25 Vict. c. 133.

(3) "Glen's Public Health," 1925 Edition, at pp. 102–104; Coulson & Forbes on "Law of Waters," 1924 Edition, at pp. 642-663; "Laws of England," Vol. XVIII, at pp. 301–303, and Supplement.

(4) Dowell on "Income Tax," 1926 Edition; Konstam on "Income Tax," 1926 Edition with Supplement of 1928; Konstam and Hilderley's "Rates and Taxes," 1927 Edition; "Laws of England," Vol. XVI, at pp. 609–691, and Supplement.

Note.

Jury Qualifications.—*By sect.* 8 (2) (*b*) *of the Juries Act*, 1922,[1] "*nothing in this Act shall alter or affect the qualification or liability of any person to be summoned to serve and to serve as a juror or special juror on any jury in the High Court or at assizes, or in any county court, except that (without prejudice to the provisions of sect.* 37 *of the Juries Act*, 1825) *a person whose name is not included in the register of electors shall not be qualified or liable so to serve, and that a woman who is a vowed member of a religious order living in a convent or other religious community shall not be marked as a juror and shall not, although included in the jurors book, be liable to serve on any jury.*" *Sect.* 37 *of the County Juries Act*, 1825,[2] *relates to "talesmen" to fill up juries when too few jurors are present. The expression "net annual value for income tax purposes" is defined in sect.* **134**.

SECT. 80. [*Adaptation of* 7 *&* 8 *Geo.* V, *c.* 64, *s.* 41 (9).]

The Representation of the People Act, 1918, shall, as from the appointed day, have effect as if for section 41 (9) thereof (which makes provision as to the manner in which the yearly value of land or premises is to be ascertained for the purposes of that Act), there were substituted the following paragraph, that is to say—

"(9) The yearly value of land or premises shall—

(*a*) if the gross value thereof for rating purposes appears in the valuation list for the time being in force, be taken to be the gross value as so appearing, any necessary apportionment of that value being made by the registration officer:

(*b*) if no gross value thereof for rating purposes appears in the valuation list, but the value thereof if assessed under Schedule A of the Income Tax Act, 1918, as amended by any subsequent enactment, be taken to be the gross annual value of the land or premises for income tax purposes, any necessary apportionment of that value being made by the registration officer:

(*c*) in any other case, be taken to be the amount which would, in the opinion of the registration officer, have been the

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(1) 12 & 13 Geo. V, c. 11, s. 8 (2) (*b*). For the law relating to the qualification, disqualification, and exemption of jurors, see "Laws of England," Vol. XVIII, at pp. 229-233, and Supplement.

(2) 6 Geo. IV, c. 50, s. 37.

gross value for rating purposes of the land or premises under the enactments relating to rating and valuation in force on the sixth day of February, 1918."

Note.

Registration of Voters.—*Sect.* 41 (9) *of the Act of* 1918 *provided that "the yearly value of land or premises shall be taken to be the gross estimated rental, or in the metropolis the gross value, where those premises are separately assessed to rates, and in any other case shall be deemed to be the amount which would in the opinion of the registration officer be the gross estimated rental or gross value, as the case requires if they were separately assessed."*[1] *The portions of the Act of* 1918 *which relate to local government matters in England and Wales will be found in the work mentioned below.*[2] *The expression "gross annual value for income tax purposes" is defined in sect.* 134.

SECT. 81. [*Power to require copies of values in force under Schedule A of* 8 *and* 9 *Geo.* V, *c.* 40.]

Any authority or person upon whom is imposed by or under any enactment a duty to obtain information for the purposes of the registration of voters or of enabling the names of persons qualified as jurors or special jurors to be marked in the electors' lists, and any authority, person or body of persons having power to levy a drainage rate, may from time to time require the surveyors of taxes for their area to furnish to them, on payment at a rate not exceeding five shillings for every hundred entries numbered separately, a copy of the annual values for the time being in force for the purposes of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area.[3]

SECT. 82. [*Consequential provisions as to certain payments in respect of Welsh education.*]

(1) For the limit upon the aggregate amount of the annual sums payable out of moneys provided by Parliament under section 9 of the Welsh Intermediate Education Act, 1889,[4] in respect of schools in any county or county borough, there shall, as from the first day of April, 1930, be substituted a limit of an amount

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(1) 7 & 8 Geo. V, c. 64, s. 41 (9).

(2) " Glen's Public Health," 1925 Edition, at pp. 2282–2298.

(3) As to " registration of voters," see Note to s. 80; as to " jury qualifications," see Note to s. 79; as to " drainage rates," see Note to s. 78; and as to " income tax," see Note to s. 78.

(4) 52 & 53 Vict. c. 40, s. 9.

equal to the maximum amount which was so payable for the year ending on the thirty-first day of March, 1929; and, as from the said first day of April, the said section 9 shall have effect as if for references therein to the Treasury there were substituted references to the Board of Education.

(2) As from the first day of April, 1930, the yearly sums payable to the Central Welsh Board which are to be determined under section 42 (1) (*a*) of the Education Act, 1918,[1] shall be determined as if for the reference in that paragraph to "the preceding year" there were substituted a reference to the year ending on the thirty-first day of March, 1929.

SECT. 83. [*General adaptation of enactments and other documents.*]

(1) Save as in this Part of this Act otherwise expressly provided, any provisions of any document directing that expenditure falling to be defrayed by two or more local authorities shall be apportioned between those authorities by reference to some value (other than rateable value) as appearing in or ascertained from the valuation list for the time being in force or as shown in, or ascertained in accordance with the Acts relating to, the basis or standard of county rates shall, as from the first day of April, 1930, have effect as if for any reference to that value there were therein substituted—

(*a*) in the case of a document, not being an enactment, as respects which a value is agreed upon by the local authorities concerned, a reference to that value; and

(*b*) in the case of any such document as respects which a value is not so agreed upon, and in the case of an enactment, a reference to rateable value as shown by the valuation list for the time being in force.[2]

(2) Save as in this Part of this Act otherwise expressly provided, any provision of any document directing that the amount of any payment, not being a payment to which the last foregoing subsection applies, shall be determined by reference to some value as appearing in or ascertained from the valuation list for the time being in force or as shown in, or ascertained in accordance with the Acts relating to, the basis or standard of county rates shall,

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(1) 8 & 9 Geo. V, c. 39, s. 42 (1) (*a*).

(2) For definition of "enactment," see s. 134. For other "adaptations," see Sched. X.

as from the appointed day, have effect as if for any reference to that value there were therein substituted—

(*a*) in the case of a document, not being an enactment, as respects which a value is—

(i) agreed upon by all persons having rights or obligations under the document; or

(ii) determined, in default of such agreement, by an arbitrator appointed by the Minister on an application made to him by or on behalf of any such person,

a reference to the value so agreed upon or determined; and

(*b*) in the case of an enactment, a reference to such value as may be determined by order of the Minister on application made to him by any such person as aforesaid.

(3) Before making any order under this section, the Minister shall require the applicants to serve a copy of the draft order upon any local authority affected and to give, in terms approved by him and in such manner as he may consider best adapted for informing any other persons affected, public notice of the application for the order and as to the manner in which and the time within which objections to the order may be made, and shall consider any objection which may be duly made within four weeks from the date of the notice, and in the event of any objection being so made and not withdrawn the Minister shall make the order as a provisional order which shall not have effect unless and until confirmed by Parliament.

SECT. 84. [*Citation and construction of Part V.*]

In this Part of this Act the expression the "principal Act" means, in relation to places outside London, the Rating and Valuation Act, 1925, as amended by any subsequent enactment, and in relation to London, the Valuation (Metropolis) Act, 1869, as so amended as aforesaid, and the principal Act, the Rating and Valuation (Apportionment) Act, 1928, and this Part of this Act shall be construed as one, and may be cited together as the Rating and Valuation Acts, 1925 to 1929, or as the Rating and Valuation (Metropolis) Acts, 1869 to 1929, as the case may be.

Note.

CONSTRUCTION OF ACTS "AS ONE."—*There are numerous decisions as to the effect of the common provision that certain groups* *of Acts are to be "construed as one." In the case cited below,*[1] *Farwell, L.J., quoting Lord Selborne in an earlier case,*[2] *said that the effect of such a provision was that the court "must construe every part of each of them as if it had been contained in one Act, unless there is some manifest discrepancy, making it necessary to hold that the later Act has to some extent modified something found in the earlier Act." See also the more recent cases cited below.*[3]

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(1) *Canada Southern Ry. Co.* v. *International Bridge Co.* (1883), L.R. 8 A.C. at p. 727.

(2) *In re Kedwell and Flint & Co.*, L.R. 1911, 1 K.B. 797, at p. 803; 80 L.J.K.B. 707 104 L.T. 151; 55 Sol. J. & W.R. 311.

(3) Per Warrington, J., in *London C.C.* v. *Port of London Authority* (K.B.D.), L.R. 1914 2 Ch. at pp. 373, 375; per Lord Sumner in *Charing Cross Electric Supply Co.* v. *London Hydraulic Power Co.* (C.A.), L.R. 1914, 3 K.B. at p. 783; 12 L.G.R. at p. 817; per Lush, J., in *Rex* (*Barking U.D.C.*) v. *Essex JJ.* (1916, K.B.D.) 80 J.P. at p. 192; (affirmed in C.A.), 80 J.P. 345; per Lord Reading, C.J., in *Arlidge* v. *Scrase*, L.R. 1915, 3 K.B. at p. 333; per Lord Reading, C.J., in *Towler* v. *Sutton* (1916, K.B.D.), 80 J.P. at p. 462; 14 L.G.R. at p. 1157; and per Lord Hewart, C.J., in *Hart* v. *Hudson Bros.* (1928), 92 J.P. at p. 170.

PART VI.

EXCHEQUER GRANTS AND OTHER FINANCIAL PROVISIONS.

Discontinued Grants.

SECT. 85. [*Discontinuance of grants.*]

(1) The grants set out in the Second Schedule to this Act (in this Act referred to as "the discontinued grants") shall cease to be payable in respect of any period after the thirty-first day of March, 1930.

(2) For the purposes of this Part of this Act, any part of a discontinued grant paid in any year to a voluntary association (other than the King Edward the Seventh Welsh National Memorial Association) shall be treated as paid in respect of that year, notwithstanding that the amount thereof was based on the expenditure of the association in the preceding year.

(3) As soon as may be after the appointed day, the Local Taxation Account and the Exchequer Contribution Account of every county and county borough shall be wound up in accordance with such directions as, in the case of the Local Taxation Account, the Treasury, and in the case of the Exchequer Contribution Accounts, the Minister, may give.

(4) The provisions set out in the Third Schedule to this Act shall, as from the appointed day, have effect with respect to the payments therein mentioned, being payments which immediately before the appointed day were payable out of Local Taxation Accounts, or out of moneys which would have been payable to such accounts or were payments required to be charged to Exchequer Contribution Accounts.

(5) Where, immediately before the appointed day, there is in force a financial adjustment between any spending authorities with respect to any of the discontinued grants payable to those authorities, such financial adjustments shall, as from the appointed day, cease to have effect, and if and so far as, having regard to the Exchequer Grants payable under this Part of this Act, any new financial adjustment is necessary, a new financial adjustment on an equitable basis shall be made by agreement between the spending authorities, or, in default of agreement, by a single arbitrator appointed by the Minister.

Note.

FINANCIAL PROVISIONS.—*For a summary of Part VI of the* *present Act, see the Introduction.*[1] *The "appointed day" for the purposes of this Part is April* 1, 1930*—see sect.* 134.

Discontinued Grants.—*The grants set out in Sched. II are :*

" 1. *The grants payable out of the Consolidated Fund or the growing produce thereof into the Local Taxation Account.* 2. *The grants in aid of certain health services, that is to say, grants for maternity and child welfare, other than the training of midwives and health visitors, grants for the treatment of tuberculosis, grants for the treatment of venereal diseases, grants for the welfare of the blind, and grants in respect of mental defectives.* 3. *Road grants, that is to say, grants made as classification grants in respect of roads and bridges classified by the Minister of Transport as roads and bridges of Class I or Class II in London and county boroughs, and as grants for the maintenance of unclassified roads in counties.*"[2]

General Exchequer Contributions.

SECT. 86. [*Payment of General Exchequer Contributions.*]

(1) There shall be paid out of moneys provided by Parliament in respect of the year beginning on the appointed day, and each subsequent year, an annual contribution towards local government expenses in counties and county boroughs to be called the "General Exchequer Contribution."

(2) The amount of the General Exchequer Contribution shall be periodically revised; the amount first fixed shall be for a period of three years beginning on the appointed day, the amount fixed on the first revision shall be for a period of four years from the expiration of the first period, the amount fixed on any subsequent revision shall be for a period of five years from the expiration of the previous period, and a period for which the General Exchequer Contribution is so fixed is hereinafter referred to as a "fixed grant period."

(3) The amount of the General Exchequer Contribution shall be the sum of the following amounts, that is to say :—

(*a*) an amount equal to the total losses on account of rates of all counties and county boroughs :[3]

(*b*) an amount equal to the total losses on account of grants of all counties and county boroughs :[4]

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(1) *Ante*, pp. 13–20.
(2) See Index under " Grants."
(3) For definition of " losses on account of rates," see s. 34.
(4) For definition of " losses on account of grants," see 134.

(*c*) in respect of each year in the first fixed grant period, five million pounds, and in respect of each year of every following fixed grant period such amount as Parliament may hereafter determine with respect to the fixed grant period so, however, that the proportion which the General Exchequer Contribution for any fixed grant period bears to the total amount of rate and grant borne expenditure in the penultimate year of the preceding fixed grant period shall never be less than the proportion which the General Exchequer Contribution for the first fixed grant period bore to the total amount of rate and grant borne expenditure in the first year of that fixed grant period. In the foregoing provisions of this paragraph—

(i) " rate and grant borne expenditure" means the local expenditure which fell to be borne by rates and by grants made under this Part of this Act out of the General Exchequer Contribution; and

(ii) if as respects any fixed grant period the Minister certifies that the amount of rate and grant borne expenditure in the penultimate year of that fixed grant period was abnormally increased by reason of any emergency involving the issue of a proclamation under the Emergency Powers Act, 1920, there shall be deemed to be substituted for the reference to the penultimate year of the preceding fixed grant period a reference to the last year preceding the said penultimate year in which no such abnormal expenditure was incurred.

Note.

Emergency Powers.—*As to subsect.* 3 (ii) *of the present section, by sect.* 1 (1) *of the Emergency Powers Act,* 1920,[1] "*if at any time it appears to His Majesty that any action has been taken or is immediately threatened by any persons or body of persons of such a nature and on so extensive a scale as to be calculated, by interfering with the supply and distribution of food, water, fuel, or light, or with the means of locomotion, to deprive the community, or any substantial portion of the community, of the essentials of life, His Majesty may, by proclamation (hereinafter referred to as a proclamation of emergency), declare that a state of emergency exists.*"

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(1) 10 & 11 Geo. V, c. 55, s. 1 (1).

SECT. 87. [*Payments out of Road Fund towards General Exchequer Contribution.*]

(1) Towards the General Exchequer Contribution there shall at such times and in such manner as the Treasury may direct be paid out of the Road Fund in respect of the year beginning on the appointed day, and each subsequent year an annual contribution amounting to the sum of the following amounts, that is to say—

(*a*) a sum equal to the certified amount of discontinued road grants for the standard year; and

(*b*) in respect of each year in the first fixed grant period, eighty ninety-first parts of the sum of three million pounds, and in respect of each year of each following fixed grant period, such sum as Parliament may hereafter determine with respect to the fixed grant period;

and any sum so payable out of the Road Fund shall, in accordance with regulations made by the Treasury, be applied as an appropriation in aid of the moneys to be provided by Parliament for the purposes of the General Exchequer Contribution.

(2) So much of section 2 of the Roads Act, 1920, as provides for the payment in every year to the Local Taxation Account, out of the sum to be issued out of the Consolidated Fund under that section, of the sum of five hundred and thirty-six thousand nine hundred and fifty-four pounds and eight shillings, shall as from the appointed day cease to have effect.

In respect of each of the years beginning on the first day of April, 1928 and 1929, there shall be charged on the Consolidated Fund or the growing produce thereof and paid thereout to the Road Fund, in addition to the sums paid into that fund under subsection (3) of the said section 2, a sum of five hundred and thirty-six thousand nine hundred and fifty-four pounds and eight shillings.[1]

SECT. 88. [*Apportionment of General Exchequer Contributions.*]

(1) The General Exchequer Contributions shall be apportioned amongst the several counties and county boroughs in manner hereinafter following, that is to say:—

(*a*) during the first four fixed grant periods there shall out of the General Exchequer Contribution for each year be apportioned to each county or county borough an amount equal to the appropriate percentage of the losses on account of rates and grants of the county or county borough :

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(1) As to the Road Fund, and ss., 1–3 of the Act of 1920 (10 & 11 Geo. V, c. 72), see "Glen's Public Health," 1925 Edition, at pp. 2220, 2221. For definition of "certified," see s. 134. For "standard year," see footnote (1), *post*, p. 153.

(*b*) during the first four fixed grant periods the residue, and thereafter the whole, of every General Exchequer Contribution, shall each year be apportioned amongst the several counties and county boroughs in proportion to their weighted populations.

(2) The amount apportioned under this section to a county shall be called "the county apportionment" and the amount so apportioned to a county borough shall be called "the county borough apportionment."

Note.

Definitions.—*For the definition of "appropriate percentage" see the Note to sect.* 92, *and for that of "weighted population," see sect.* 134 *and Sched. IV, Part. III. For a summary of the latter, see the Introduction* (*ante, pp.* 15, 16).

Grants to Counties other than London.

SECT. 89. [*General Exchequer Grants to counties.*]

Out of the county apportionment of every county other than the county of London there shall be set aside such amount as will be sufficient to pay to the councils of districts situate wholly or partly within the county the sums hereinafter directed to be so set aside; the residue of the county apportionment after such sums as aforesaid have been so set aside, shall be paid to the council of the county and shall be called the "General Exchequer Grant" of that council :

Provided that, if in the case of any county the county apportionment is less than the amount to be so set aside, the deficiency shall be paid out of moneys provided by Parliament, and the sums so paid shall be treated as part of the county apportionment.

SECT. 90. [*Additional Exchequer Grants to counties.*]

(1) As respects the first fixed grant period, if in the case of any county the county apportionment falls short of an amount arrived at by adding to the standard sum a sum equivalent to one shilling per head of the estimated population of the county for the standard year, there shall in respect of each year of that fixed grant period

be paid out of moneys provided by Parliament to the council of the county a sum equal to the deficiency.[1]

(2) As respects each subsequent fixed grant period, if in the case of any county the county apportionment falls short of the standard sum increased by the greater of the two following sums, that is to say—

(*a*) a sum equivalent to one shilling per head of the estimated population of the county for the appropriate year; [2]

(*b*) a sum equivalent to one-third of the excess of the county apportionment for the period in question over what would have been the county apportionment for the period in question had the General Exchequer Contribution for that period been the same as the General Exchequer Contribution for the first fixed grant period;

there shall in respect of each year of the fixed grant period in question be paid out of moneys provided by Parliament to the council of the county a sum equal to the deficiency.

(3) For the purposes of this section, the standard sum as respects any county shall be the amount of the loss on account of rates and grants of that county,[3] so, however, that—

(*a*) if for the fixed grant period in question the General Exchequer Contribution is less than the General Exchequer Contribution for the first fixed grant period, the standard sum shall be the said amount reduced proportionately to such diminution in the General Exchequer Contribution;

(*b*) if for the fixed grant period in question the weighted population of the county is less than the weighted population of the county for the first fixed grant period adjusted as regards unemployment, the standard sum shall be the said amount reduced (or if a reduction therein has been made under paragraph (*a*) of this subsection, that reduced amount further reduced) proportionately to such diminution in weighted population.[4]

(4) In this section the expression "adjusted as regards unemployment" means calculated as if the appropriate multiple

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(1) As to "standard sum," see subsect. (3) of present section. "Estimated population" means estimated by Registrar-General for calendar year in which year in question begins, see s. 134. The "standard year" is April 1, 1928, to March 31, 1929, see s. 134.

(2) The "appropriate year" is the standard year and thereafter the last year of the preceding fixed grant period, see s. 134.

(3) For definitions of these two kinds of losses, see s. 134.

(4) "Weighted population" is defined by s. 134 by reference to calculation rules in Sched. IV, Part III.

mentioned in Rule 2 of Part III of the Fourth Schedule to this Act had been the multiple appropriate to the fixed grant period in question, and not the multiple appropriate to the first fixed grant period.

(5) The sum payable out of moneys provided by Parliament to the council of a county under this section in respect of any year shall be called the "Additional Exchequer Grant" of that council.

Grants to County Districts.

SECT. 91. [*General Exchequer Grants to districts.*]

(1) The sum to be set aside out of the county apportionment for payments to the councils of districts shall be such sum as is required to provide for each district wholly or partly within the county a sum calculated for each fixed grant period in accordance with the rules set out in Part IV of the Fourth Schedule to this Act upon the basis of the estimated population of the district or the part of the district within the county, as the case may be, together with such sums as are under the two sections of this Act next following required to be so set aside.

(2) There shall be paid in respect of each year to the council of a district the sums so set aside in respect of the district subject to such additions and deductions as are in pursuance of the provisions hereinafter contained required for adjusting losses and gains of areas in the district, and the sum so payable to the council of the district shall be called the "General Exchequer Grant" of that council.

SECT. 92. [*Compensation for losses on account of special and parish rates.*]

(1) Where in the standard year a special or parish rate is leviable in any area within a rural district, the loss on account of that rate shall be ascertained in accordance with the rules set out in Part I of the Fourth Schedule to this Act, and—

(*a*) the sum to be set aside out of the county apportionment in respect of the rural district and payable to the council thereof shall in respect of each year during the first four fixed grant periods be increased by a sum equal to the appropriate percentage of the loss of the area on account of the special or parish rate; and

(*b*) there shall be payable to the council of the district by the council of the county, in each year during the first and second fixed grant periods a sum equal to twenty-five per cent. of that loss, and thereafter such sum as the council of the county may determine.

(2) Any sum paid to a rural district council under this section shall be applied by the council to such purposes and in such manner as may be prescribed.

Note.

Special Rate.—*By sect.* 134, "*special rate*" *means* "*a special rate as defined in sect.* 3 *of the Rating and Valuation Act*, 1925,"[1] *subsect.* (1) *of which provides as follows :—*"*As from the appointed day the rating authority of each rural rating area shall, in lieu of any rate in respect of expenditure under the Lighting and Watching Act*, 1833,[2] *and of any rate in respect of special expenses under the Acts relating to Public Health, make and levy in each part of the area which is liable to be separately rated in respect of any such expenditure or in respect of any such special expenses a separate rate which shall be termed 'a special rate' : Provided that, where the amount of any such expenditure, or of any such expenses, for any half-year falling to be raised by means of a special rate chargeable on any part of the area is less than ten pounds, or is so small that a general rate of less than one penny in the pound would be sufficient to produce the amount of that expenditure or of those expenses, that amount shall not be levied by a special rate, but shall be levied in that part of the area together with, and as an additional item of, the general rate. In this subsection the expression 'half-year' means the period of six months expiring on the* 31*st day of March or the* 30*th day of September.*" *The* "*standard year*" *is April* 1, 1928, *to March* 31, 1929, *see sect.* **134**.

Parish Rate.—*By sect.* 134, "*parish rate*" *means* "*a rate or an additional item of a rate levied to defray the expenses of a parish council or parish meeting other than expenses defrayed out of a special rate, and also includes any additional item of the general rate which by virtue of section* 3 *of the Rating and Valuation Act*, 1925, *is to be levied in lieu of a special rate.*"

Appropriate Percentage.—*By sect.* 134, "*appropriate percentage*" *means* "*as respects the first and second fixed grant periods* 75 *per cent., as respects the third fixed grant period* 50 *per cent., and as respects the fourth fixed grant period* 25 *per cent.*"

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(1) 15 & 16 Geo. V, c. 90, s. 3 (1).

(2) 3 & 4 Wm. IV, c. 90.

PRESCRIBED.—*Sect.* 134 *defines "prescribed" by reference to regulations of the Minister of Health.*

SECT. 93. [*Schemes as to maternity and child welfare.*]

As respects any county in which there is a district the council of which have established a maternity and child welfare committee under the Maternity and Child Welfare Act, 1918,[1] the Minister shall before the beginning of each fixed grant period, after consultation with the councils of the county and of the districts, make a scheme for increasing the sum to be set aside out of the county apportionment in respect of the district by such amount as he thinks fit, having regard to the expenditure which will be defrayed by the council of the district upon services in connection with maternity and child welfare; and where such a scheme is made, the sum to be set aside out of the county apportionment in respect of the district shall be increased accordingly.

SECT. 94. [*Supplementary Exchequer Grants to districts.*]

(1) For the purpose of adjusting as between separately rated areas in any county any decreases and increases in the poundage of rates (other than special and parish rates) due to the operation of Parts I, III, V and VI of this Act during the period of nineteen years beginning on the appointed day, the following provisions shall have effect during that period :—

(*a*) there shall be ascertained in accordance with the rules set out in the Fifth Schedule to this Act as respects every separately rated area in the county whether the operation of Parts I, III, V and VI of this Act would, apart from this section, result in a gain or loss to the area and the amount of the gain or loss :[2]

(*b*) in respect of each area as respects which a loss is disclosed there shall be added to the sum which, apart from this section, would be payable as the General Exchequer Grant of the council of the district in which the area is situate the following amounts, that is to say, for the year beginning on the appointed day and each of the four following years, an amount equal to the full amount of the loss, and for each of the next succeeding fourteen years an amount less than the amount so added in the preceding year by a sum equal to one-fifteenth of the amount added for the year beginning on the appointed day:

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(1) Set out in Appendix, *post*, p. 324.

(2) For definition of "separately rated area," see s. 134.

(*c*) the sum required for providing such additions as are mentioned in the last foregoing paragraph shall not be met by setting aside any sum out of the county apportionment, but the said sum shall be contributed:—

(i) as to one moiety thereof, by payments out of moneys provided by Parliament;

(ii) as to the other moiety thereof, by deducting from the amounts allocated to the several districts out of the county apportionment on the basis of estimated population contributions to the said moiety proportionate to the amount of the gain of the separately rated areas in their respective districts as respects which such a gain is disclosed:

Provided that any sum by which any such contribution would in the case of any district exceed the amount so allocated shall be paid out of moneys provided by Parliament:

(*d*) the Minister shall make regulations for securing that the grants under this Part of this Act paid to the several districts shall be distributed in such manner as to effect the objects of this section.

(2) The sums payable out of moneys provided by Parliament to the council of any district under this section in respect of any year shall be called the "Supplementary Exchequer Grant" of that council.

(3) As respects districts which are not divided into two or more separately rated areas, the reference in this section to "the district in which the area is situate" shall be construed as a reference to the district, and the reference to "the separately rated areas in districts" shall be construed as a reference to districts.

Grants to County Boroughs.

SECT. 95. [*General Exchequer Grants to county boroughs.*]

The whole of every County Borough Apportionment shall be paid to the council of the county borough and the sum so paid shall be called the "General Exchequer Grant" of that council.

SECT. 96. [*Additional Exchequer Grants to county boroughs.*]

(1) There shall be ascertained in accordance with the rules set out in the Fifth Schedule to this Act as respects every county

borough, whether the operation of Parts I, V and VI of this Act would apart from this and the next following section result in a gain or loss to the borough and the amount of the gain or loss :

Provided that, if a county borough comprises two or more separately rated areas, the gain or loss of each area shall be so ascertained, and the gain or loss of the county borough as a whole shall be the amount by which the gains exceed the losses or the losses the gains of the several areas.

(2) Section 90 of this Act shall apply to county boroughs as if for references to counties and the county apportionment there were substituted references to county boroughs and the county borough apportionment, and as if for the words "the amount of the loss on account of rates and grants of that county" there were substituted the words "an amount equal to the county borough apportionment for the first fixed grant period increased by the loss or reduced by the gain of the borough as a whole, as ascertained under section 96 (1) of this Act."

SECT. 97. [*Supplementary Exchequer Grants to county boroughs.*]

(1) Where a county borough comprises two or more separately rated areas, then for the purpose of adjusting as between those separately rated areas any decrease and increase of the poundage of rates due to the operation of Parts I, V and VI of this Act during the period of nineteen years beginning on the appointed day, the following provisions shall have effect during that period :—

(*a*) there shall be ascertained in accordance with the rules set out in the Fifth Schedule to this Act as respects every separately rated area in the county borough whether the operation of Parts I, V and VI of this Act would, apart from this and the last preceding section, result in a gain or loss to the area, and the amount of the gain or loss :

(*b*) if a loss is disclosed as respects any one or more of such areas, and the Additional Exchequer Grant (if any) of the county borough is an amount less than one-half of the aggregate amount of such losses, there shall be paid out of moneys provided by Parliament to the council of the county borough the following amounts, that is to say :—

(i) for the year beginning on the appointed day and each of the four following years such sum as, together with the amount of the Additional Exchequer Grant (if any), is equal to one-half of the said aggregate amount of such losses ;

(ii) for each of the next succeeding fourteen years an amount less than the amount payable for the preceding year by a sum equal to one-fifteenth of the amount payable for the year beginning on the appointed day :

(*c*) the Minister shall make regulations for securing that the grants under this Part of this Act paid to the council of the county borough shall be applied towards making good to areas with respect to which a loss is disclosed the amount of such loss or of part thereof in such manner as to effect the objects of this section.

(2) The sums payable out of moneys provided by Parliament to the council of a county borough under this section in respect of any year shall be called the "Supplementary Exchequer Grant" of that council.

Grants to the County of London, to the City of London and to Metropolitan Boroughs.

SECT. 98. [*General Exchequer Grants in London.*]

(1) Out of the county apportionment of the county of London there shall be set aside a sum sufficient to provide for the payment to the common council of the City of London and the council of each metropolitan borough of—

(*a*) a sum equal to the appropriate percentage of the losses on account of rates and grants of the council : [1]

(*b*) a sum equal to one-third of the sum which would have been apportioned to the city or borough under section 88 (1) (*b*) of this Act had it been a county borough and the weighted population thereof calculated without any increase under Rule 2 of the rules set out in Part III of the Fourth Schedule to this Act.

(2) The residue of the county apportionment of the county of London after such sums as aforesaid have been set aside shall be paid to the London County Council, and shall be called the "General Exchequer Grant" of that council.

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(1) For definition of "appropriate percentage," see Note to s. 92.

(3) There shall be paid in respect of each year to the common council and the council of each metropolitan borough a sum equal to the sums so set aside as aforesaid in respect of the City or borough, and the sum so payable to any such council shall be called the "General Exchequer Grant" of that council.

(4) The London (Equalisation of Rates) Act, 1894,[1] shall cease to have effect as from the appointed day.

SECT. 99. [*Additional Exchequer Grants in London.*]

The provisions of this Part of this Act relating to the calculation and payment of Additional Exchequer Grants to counties shall apply to the county of London as they apply to all other counties.[2]

SECT. 100. [*Supplementary Exchequer Grants in London.*]

(1) For the purpose of adjusting as between separately rated areas in the county of London any decrease and increase in the poundage of rates due to the operation of Parts I, V and VI of this Act, during the period of nineteen years beginning on the appointed day, the following provisions shall have effect during that period:—

(*a*) there shall be ascertained in accordance with the rules set out in the Fifth Schedule to this Act as respects every separately rated area in the county, whether the operation of Parts I, V and VI of this Act would, apart from this section, result in a gain or loss to the area, and the amount of the gain or loss;

(*b*) in the case of every such area with respect to which a loss is disclosed, the amount which would otherwise be contributed by the area towards the amount required to be levied by rate for general county purposes shall be reduced by crediting to the area the following amounts, that is to say:—

(i) for the year beginning on the appointed day and each of the four following years the full amount of the loss;

(ii) for each succeeding year the amount credited in the preceding year, subject to a deduction of one-fifteenth of the full amount of the loss:

(*c*) the deficiency in the revenue from rates resulting in any year to the London County Council by reason of the provisions of the last foregoing paragraph shall be met—

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[1] 57 & 58 Vict. c. 53.

[2] See s. 90, *ante*.

(i) as to one moiety thereof by payments out of moneys provided by Parliament; and

(ii) as to the other moiety thereof, by debiting to each area as respects which a gain is disclosed an amount proportionate to the amount of that gain and by increasing the amount which would otherwise be contributed as aforesaid by the area by the amount so debited.

(2) The sums payable out of moneys provided by Parliament to the London County Council under this section in respect of any year shall be called the " Supplementary Exchequer Grant" of that council.

Contributions of Councils in respect of Public Health Services.

SECT. 101. [*Contributions by councils to voluntary associations in respect of maternity and child welfare.*]

(1) It shall be the duty of the council of every county (other than the county of London) and of every county borough six months at least before the beginning of each fixed grant period to prepare and submit to the Minister for his approval a scheme for securing the payment by the council of annual contributions towards the expenses of voluntary associations, if any, providing maternity and child welfare services in or for the benefit of the county or county borough.[1]

(2) The scheme shall provide—

(*a*) for the payment to any such association whose services were immediately before the appointed day approved by the Minister of such annual contribution in respect of those services (not being less than a sum to be determined by the Minister) as may be specified in the scheme; and

(*b*) for the payment to any such association in respect of any services not so approved, which are utilised by the council, of such annual contribution as may be specified in the scheme.

(3) The Minister may approve a scheme submitted under this section either with or without modifications, and if any such

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(1) As to payment of those contributions by Minister of Health direct out of General Exchequer Grant, see s. 106. As to Schemes under the Act generally, see s. 131.

council fails to prepare and submit to the Minister such a scheme within the time allowed for the purpose, the Minister may himself make a scheme.

(4) A scheme made by the council of a county under the foregoing provisions of this section shall determine whether and to what extent the services provided by any voluntary association are such that contributions thereto should be paid by the council of a district in the county who have established a maternity and child welfare committee under the Maternity and Child Welfare Act, 1918;[1] and where the scheme provides for such contributions being made by the council of any district, a copy thereof shall be sent to that council by the county council when the scheme is submitted to the Minister and it shall be the duty of the council of the district to prepare and submit to the Minister, within three months after the receipt of the said copy, a scheme for the payment of such contributions by the council; and the foregoing subsections shall, with the necessary adaptations, apply accordingly.

(5) If upon representations made by any voluntary association it appears to the Minister that the association proposes to provide or to extend maternity and child welfare services in or for the benefit of a county or county borough subject to contributions or increased contributions being made to the association under any scheme for the time being in operation under this section, and that it is, therefore, expedient that any such scheme should be altered, the Minister may, after considering the representations in consultation with the council of the county or county borough, so alter the scheme as to provide for such contributions or increased contributions as he considers just, and may also make such consequential alterations, if any, as he considers desirable in any scheme made under this section by the council of any district affected.

(6) As respects the county of London, the Minister shall before the beginning of each fixed grant period, after consultation with the councils concerned, make a scheme determining, in relation to voluntary associations providing maternity and child welfare services, which of those services are to be treated as services in respect of which the county council are to contribute and which are services in respect of which the common council of the City of London and the councils of the metropolitan boroughs are to contribute; and the scheme shall provide for the payment during

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(1) Set out in Appendix, *post*, p. 324.

the fixed grant period to the association by the several councils of contributions of such amounts as may be specified in the scheme.

SECT. 102. [*Contributions by councils to voluntary associations in respect of other health services.*]

(1) The Minister shall before the beginning of each fixed grant period after consultation with the county and county borough councils concerned or with the associations representing those councils make a scheme providing for payment of contributions of such amounts as may be specified in the scheme to any voluntary association which provides services for the welfare of the blind by the councils of counties and county boroughs in which are resident blind persons for whose benefit those services are provided.[1]

This subsection shall apply to the City of London as if it were a county borough and the common council were the council of a county borough.

(2) The Minister shall before the beginning of each fixed grant period, after consultation with the county and county borough councils concerned or with the associations representing those councils, make a scheme providing for the payment of contributions by councils of counties and county boroughs of such amounts as may be specified in the scheme to voluntary associations which undertake the duty of assisting or supervising defectives whilst not in institutions.

(3) The Minister shall before the beginning of each fixed grant period, after consultation with the councils of counties and county boroughs in Wales and Monmouthshire, make a scheme for the payment by those councils to the King Edward the Seventh Welsh National Memorial Association of contributions of such amount as may be specified in the scheme towards the expenses of the services in connection with the treatment of persons suffering from tuberculosis provided by the association.

General.

SECT. 103. [*Payment of grants.*]

The grants under this Part of this Act shall be payable to the councils entitled thereto at such times and in such manner as the Treasury may direct.

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(1) As to payment of those contributions by Minister of Health direct out of General Exchequer Grant, see s. 106. The Blind Persons Act, 1920, has been set out in Appendix, *post*, p. 326.

SECT. 104. [*Power to reduce grants.*]

The Minister may reduce the grant payable in respect of any year under this Part of this Act to any council by such amount as he thinks just, if,—

(*a*) he is satisfied, either upon representations made to him by any association or other body of persons experienced or interested in matters relating to public health or without any such representations that the council have failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions relating to public health services,[1] regard being had to the standards maintained in other areas whose financial resources and other relevant circumstances are substantially similar, and that the health or welfare of the inhabitants of the area of the council or some of them has been or is likely to be thereby endangered; or

(*b*) he is satisfied that the expenditure of the council has been excessive and unreasonable, regard being had to the financial resources and other relevant circumstances of the area; or

(*c*) the Minister of Transport certifies that he is satisfied that the council have failed to maintain their roads or any part thereof in a satisfactory condition:[2]

Provided that, whenever the Minister makes such a reduction, he shall make and cause to be laid before Parliament a report stating the amount of the reduction, and the reasons therefor.

SECT. 105. [*Application of Exchequer Grants, etc.*]

Subject to the provisions of this Part of this Act, all sums received by a county council by way of General or Additional Exchequer Grant or of proceeds of local taxation licence duties shall be applicable to general county purposes.

SECT. 106. [*Power of Minister to pay council's contributions to voluntary associations out of sums payable as General Exchequer Grant.*]

Upon application being made to the Minister by the council of any county or county borough requesting that the contributions

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(1) For definition of "public health services," see s. 134.

(2) For definition of "certified," see s. 134.

of the council towards the expenses of any voluntary association having as its object the promotion of public health services may be paid directly to the association out of the amount payable as the General Exchequer Grant of the council, the Minister may pay such contributions accordingly, and any sums so paid shall be deemed to have been paid as part of that grant.[1]

SECT. 107. [*Government property.*]

For the purposes of this Part of this Act, any contribution made by the Crown in aid of rates in respect of any premises occupied by or on behalf of the Crown for public purposes shall be treated as money paid as rates, and, in the case of any premises which, if in rateable occupation, would be agricultural, industrial, or freight transport hereditaments, the value upon which that contribution would if this Act had not been passed have been computed for the half-year beginning on the first day of October, 1929, shall be treated as the unreduced rateable value of the premises, and the value on which that contribution is computed for that half-year shall be treated as the reduced rateable value thereof.[2]

SECT. 108. [*Power to make regulations.*]

(1) The Minister may make regulations for giving effect to the provisions of this Part of this Act and in particular—

(*a*) as to the apportionment for the purposes of this Part of this Act of the expenditure of any joint authority (including the receiver for the metropolitan police district and any assessment committee) amongst the areas liable to contribute to such expenditure, and for the part of the expenditure so apportioned to any area being treated as expenditure of a spending authority for that area for those purposes; and

(*b*) as to the manner in which the amounts of any grants payable under this Part of this Act are to be adjusted if and so far as any such adjustment is required in consequence of any alterations or combinations of authorities or alterations of boundaries taking effect on or after the appointed day; and

(*c*) as to the manner in which, subject to the express provisions of this Act, any calculation or estimate is to be made for the purposes of this Part of this Act, and as to the authority or person by or to whom any information required for the purposes of any such calculation or estimate is to be given, and as to the time at which and the form in which it is to be given; and, in particular, the regulations as to the manner in which expenditure falling to be borne by rates is to be calculated or estimated may provide for that expenditure being taken in appropriate cases to be the amount of the payments made in any year, and may provide for such adjustment as may be necessary to correct any abnormal treatment of income or expenditure in accounts;[1] and

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(1) See ss. 101 and 102, *ante*, and footnote (1), *ante*, p. 164.

(2) As to contributions of Crown in respect of rates, see R. & V. Act, 1925 (15 & 16 Geo. V, c. 90), s. 64 (3), and *Postmaster-General* v. *Nenagh U.D.C.*, 1913 Ir. Ch. 238; 4 Glen's Loc. Gov. Case Law 176.

(*d*) for prescribing anything which, under this Part of this Act or under the Schedules therein referred to, is to be prescribed.[2]

(2) The Local Government (Adjustments) Act, 1913, shall as from the appointed day have effect as if in section 1 (1) (*a*) thereof for the reference to the Estate Duty Grant, and the residue under section 1 of the Local Taxation (Customs and Excise) Act, 1890, mentioned in that paragraph there was substituted a reference to the grants payable under this Part of this Act, and as if for the rules contained in Part I of the Schedule thereto there were substituted the regulations made under paragraph (*b*) of the last foregoing subsection of this section.

(3) Regulations made under paragraph (*c*) of subsection (1) of this section shall make provision for securing that where proposals for the development of institutional treatment for their area were submitted to the Minister by the council of any county or county borough at such a date that grants in aid of capital expenditure on institutions to be provided thereunder are payable in accordance with the directions of the Treasury, then, if the execution of the proposals was delayed by the directions of the Minister and liabilities in connection with the proposals were incurred by the council with the approval of the Minister before the twelfth day of November, 1928, and in consequence of the delay the amount of any grants paid or payable to the council for the standard year is less than the amount thereof which would otherwise have been so payable, the amount of the grants paid or

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(1) For definition of "estimated" in certain cases, see s. 134.

(2) For definition of "prescribed," see s. 134.

payable to the council in respect of that year shall be estimated and certified as if they had been increased by such amount as may be prescribed.[1]

(4) All regulations made under this Part of this Act shall be laid before Parliament as soon as may be after they are made.[2]

Note.

ADJUSTMENTS.—*By sect.* 1 (1) (*a*) *of the Local Government* (*Adjustments*) *Act*, 1913,[3] *as amended by subsect.* (2) *of the present section*, "*on any adjustment under sect.* 32 *or sect.* 62 *of the Local Government Act*, 1888,[4] *or under sect.* 68 *of the Local Government Act*, 1894,[5] *any adjustment of the Local Taxation Licences, and the* [*grants payable under Part VI of the Local Government Act*, 1929] *shall be carried out in accordance with the* [*regulations made under sect.* 108 (1) (*b*) *of the Local Government Act*, 1929]. *By sect.* 1 (2) *of the Act of* 1913,[6] "*this section shall apply to any adjustment made* (*otherwise than by agreement*) *under any of the said sections* [32 *and* 62 *of Act of* 1888 *and* 68 *of Act of* 1894] *whether as originally enacted or as applied in England or Wales by any other Act, or by any provisional order, or by any order made or confirmed by the* [*Minister of Health*] *under the Local Government Act*, 1888, *or the Local Government Act*, 1894, *and consequent on an alteration of boundaries or other change effected after the passing of this Act.*"

SECT. 109. [*Method of apportionment between authorities of expenditure and grants, for purposes of Fourth and Fifth Schedules.*]

(1) Where by the rules contained in the Fourth and Fifth Schedules to this Act the expenditure of any authority is required to be apportioned between the several counties or county boroughs into which the area of the authority extends, the apportionment shall be made—

(*a*) in the case of expenditure in respect of roads other than loan charges, in proportion to the certified mileage of transferred roads in the parts of the area within the several counties;[1]

(*b*) in the case of expenditure of a board of guardians other than loan charges, in proportion to the number certified as being the estimated number of persons in receipt of poor relief assignable by reason of residence to the parts of the area within the several counties and county boroughs;

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(1) For definition of "certified," see s. 134.
(2) As to regulations under the present Act generally, see s. 131.
(3) 3 & 4 Geo. V, c. 19, s. 1 (1) (*a*).
(4) 51 & 52 Vict. c. 41, ss. 32, 62. For s. 62, see Appendix, *post*, p. 290.
(5) 56 & 57 Vict. c. 73, s. 68. See Glen's P.H. at p. 2100.
(6) 3 & 4 Geo. V, c. 19, s. 1 (2).

(*c*) in the case of the expenditure in respect of loan charges, in proportion to the reduced rateable value of the parts of the area within the several counties and county boroughs.[1]

(2) Where by the rules contained in the Fourth Schedule to this Act the amounts paid or payable to any authority out of the discontinued grants are required to be apportioned, the apportionment shall be made—

(*a*) in the case of grants in respect of roads, in proportion to the certified mileage of roads in respect of which the grants were made in the parts of the area within the several counties;

(*b*) in the case of grants to any voluntary association which carries on services for the welfare of the blind, in proportion to the number certified as being the estimated number of beneficiaries of the association ordinarily resident within the jurisdiction of the several authorities;

(*c*) in the case of any grants other than the grants hereinbefore in this subsection mentioned, on such basis as the Minister may by order direct.

SECT. 110. [*Investigation of working of rules of Fourth Schedule, Parts III and IV, and of s.* 98 (1) (*b*).]

The Minister shall, before the expiration of the second fixed grant period, in consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, cause an investigation to be made into the working of the rules contained in Parts III and IV of the Fourth Schedule to this Act, and of the provisions of section 98 (1) (*b*) of this Act, and shall cause a report of the result of the investigation to be laid before Parliament.

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(1) For definition of "reduced rateable value," see s. 134.

Transitory Provisions.

SECT. 111. [*Power to adjust grants in respect of alteration of authorities or boundaries before April* 1, 1930.]

Where after the commencement of the standard year, and before the appointed day, any alteration of authorities or boundaries affecting any county, county borough or county district, or any separately rated area, takes place, the Minister may make such equitable adjustments of the amounts of the grants payable under this Part of this Act as he may deem necessary in consequence of such alteration.[1]

SECT. 112. [*Provisions as to rates and precepts and grants in respect of loss of rates during transitory period.*]

(1) For the purposes of any rate to be made or precept to be issued in respect of any period between the thirtieth day of September, 1929, and the appointed day, an authority in estimating the amount which would be produced by a rate of a penny in the pound, or in determining the amount in the pound of any rate to be made or precept to be issued by them, or in making any apportionment between two or more rating areas, shall not take into account the reduction in rateable values due to the operation of Part V of this Act, or the amount of any payment to be received under this section, and for the purpose of ascertaining the amount due under any precept to which section 9 (2) of the Rating and Valuation Act, 1925, applies,[2] the amount produced by the rate of the amount in the pound specified in the precept shall be taken to be the amount which would have been so produced if the said Part V had not been passed.

(2) There shall be paid out of moneys provided by Parliament to every rating authority a sum equal to the amount estimated and certified as being the difference between the sum receivable by the rating authority as the proceeds of rates in respect of the period between the thirtieth day of September, 1929, and the appointed day, and the sum which would have been so receivable if the rateable value of the rating area from time to time had

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(1) " Standard year " means Apr. 1, 1928, to Mch. 31, 1929, see s. 134.

(2) Namely, "any precepts issued by guardians in respect of any period beginning on or after [April 1, 1927], and by councils of counties in respect of any period beginning on or after [April 1, 1929] " (15 & 16 Geo. V, c. 90, s. 9 (2)). For the words in s. 9 (2) repealed by s. 137 of the present Act, see Note to that section, *post*. For definition of " rating areas," see s. 134 and footnote.

been calculated in accordance with the enactments which were in force immediately before the commencement of this Act :

Provided that if the Minister is satisfied that the amount in the pound of the rates levied by any rating authority in respect of that period has been abnormally increased by reason of charges not ordinarily falling to be borne by rates having been imposed thereon, the sum payable to the rating authority under this subsection shall be such sum as may be estimated and certified as the sum which would have been so payable if the said amount in the pound had not been so increased as aforesaid.

PART VII.

PROPERTY LIABILITIES AND OFFICERS.[1]

Transfer of Property and Liabilities.

SECT. 113. [*Transfer of property and liabilities of poor law authorities.*]

(1) Subject to the provisions of this Part of this Act with respect to property and liabilities for which special provision is made, any property and liabilities held or incurred by or on behalf of a poor law authority whose area is wholly comprised within one county or county borough shall on the appointed day by virtue of this section be transferred to, and vest in, the council of the county or county borough.[2]

(2) Subject as aforesaid, the following provisions shall have effect in the case of a poor law authority whose area is not wholly comprised within one county or county borough—

(*a*) all institutional property of the authority shall on the appointed day by virtue of this section be transferred and vest to and in such one of the councils of the counties or county boroughs into which the area of the authority extends, or to and in two or more of those councils jointly, or to and in a joint body representing two or more of those councils, or may be divided between any two or more of those councils, as may be agreed between the councils, or, if no agreement has been arrived at two months before the appointed day, as the Minister may by order determine;

Any such agreement or order may attach conditions to the transfer or user of any institutional property and may provide for the joint user of such property;

(*b*) all institutional liabilities of a poor law authority shall on the appointed day by virtue of this section be transferred to and vest in the council or councils or joint body to which the corresponding institutional property is transferred;

(*c*) all non-institutional property and liabilities of a poor law authority shall on the appointed day by virtue of this section be transferred and vest—

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(1) For a summary of Part VII, see Introduction, *ante*, p. 20.

(2) See s. 134 for definitions of "property," "liabilities," "poor law authority," "poor law area," and "appointed day" (for this Part, April 1, 1930, except in cases within s. 20 (1), as to superseded guardians, in which it may be April 1, 1935).

(i) in the case of any right of recovery from any person of payments made or expenses incurred by the authority by way of poor relief, to and in the council of the county or county borough in which the recipient of the relief was resident when the relief was granted;[1] and

(ii) in the case of other property and liabilities, to and in the council of the county or county borough in which the portion of the poor law area having the larger or largest reduced rateable value is situate;[2]

(*d*) as soon as practicable after the appointed day there shall be made, in accordance with the provisions contained in the Sixth Schedule to this Act—

(i) an apportionment of, or an adjustment in respect of, the non-institutional property and liabilities of the poor law authority, other than such rights of recovery as aforesaid; and

(ii) unless the councils concerned have agreed that such an adjustment is unnecessary, an adjustment in respect of the institutional property and institutional liabilities of the authority.

(3) For the purposes of this section and of the said Schedule—

"Institutional property" means all poor law institutions and offices and any other freehold or leasehold property whatsoever of a poor law authority (including any rights enjoyed in connection therewith) together with any furniture, plant, and fittings on or about any such institution offices or property, and includes any unexpended balances of loans raised in respect of institutional property and sums set apart as a sinking fund to pay off loans so raised;[3]

"Institutional liabilities" means any outstanding liabilities for loans raised in respect of the provision, extension or equipment of any institutional property;

"Non-institutional property and liabilities" includes all property and liabilities of a poor law authority other than institutional property and institutional liabilities.

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(1) As to recovery of expenses, see s. 16.

(2) For definition of "reduced rateable value," see s. 134.

(3) For definition of "sinking fund," see s. 134.

SECT. 114. [*Mitigation of liability of councils for temporary loans raised under* 11 & 12 *Geo. V, c.* 67.]

(1) For the purpose of affording relief to the councils of counties and county boroughs to whom liabilities in respect of loans (including overdrafts) raised by poor law authorities under section 3 of the Local Authorities (Financial Provisions) Act, 1921 (as amended by any subsequent enactment), are transferred under this Act, the following provisions shall have effect with respect to such loans—

(*a*) the Minister shall, in the case of each county and county borough to the council of which liability for any such loan is transferred under this Part of this Act, certify the amount of the liability on account of the loan outstanding on the appointed day after deducting therefrom such amount, if any, as represents sums required by the Minister to be paid by a poor law authority before the appointed day which have not been so paid;

(*b*) where any such loan is a loan made by the Minister, the sum so certified with respect to the loan shall be repaid without interest to the Minister by the council liable therefor within fifteen years from the appointed day either by means of an annuity equal to one-fifteenth part of the certified sum, the first instalment being payable on the thirty-first day of March, 1931, or by such other means as may be agreed between the Minister and the council;[1]

(*c*) where any such loan is a loan made by a person other than the Minister, the loan and the interest thereon shall continue payable by the council liable therefor at such times and by such instalments as are required by the terms of the contract of borrowing; but the Minister shall pay to the council out of moneys provided by Parliament an annuity for fifteen years equivalent to the difference between the sum so certified by the Minister as aforesaid with respect to the loan, and the value of the annuity which would have been payable to the Minister by the council had the loan been made by the Minister, the rate of interest assumed in calculating such value being five per cent.;

(*d*) if in the case of any council the amount, which under the foregoing provisions of this section, would have been payable by the council in any year in respect of sums so certified by the Minister if all of those sums had been on account of loans made by the Minister and had been repayable by means of an annuity equal to one-fifteenth part of the certified sums, exceeds the amount which would be produced by a rate of ninepence in the pound levied on the reduced rateable value of the county or county borough, the amount payable in that year by the council to the Minister under this section shall be reduced by the amount of the excess;[1]

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(1) For definition of "certified," see s. 134.

(*e*) if as respects any county or county borough the certificate of the Minister relating to any poor law authority from whom liability for any such loan is transferred provides for a deduction on account of the failure of the authority to make any payments required by the Minister to be made before the appointed day, the amount so deducted shall be paid by the council but shall—

(i) in the case of a county be treated as expenses for special county purposes chargeable exclusively on such part of the county as was before the appointed day comprised in the area for which the poor law authority acted;

(ii) in the case of a county borough not wholly comprised within the area of the poor law authority from whom the liability for the loan was transferred to the council, be chargeable exclusively on the part of the borough within that area, and the amount so charged shall be levied as an additional item of the general rate on that part of the borough.

(2) The foregoing provisions of this section shall not apply to any such loan raised by a poor law authority after the twelfth day of November, 1928, and in such case the council to whom liability for the loan is transferred shall make the payments due in respect of capital of and interest on the loan in accordance with the terms of the contract of borrowing, and such payments shall be made and charged in like manner as is hereinbefore provided with respect to the payment of sums deducted by the Minister's certificate.

(3) Where a poor law area is not wholly comprised within one

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(1) For definition of "reduced rateable value," see s. 134.

county or county borough, the liability of the authority for any such loan as aforesaid shall be apportioned between the several counties and county boroughs into which the area extends in proportion to the reduced rateable value of the parts of the poor law area comprised therein, and the foregoing provisions of this section shall apply as if the part of a loan apportioned to any county or county borough were a loan the liability for which was transferred to the council thereof.

Note.

TEMPORARY LOANS.—*By sect.* 3 *of the Local Authorities (Financial Provisions) Act,* 1921,[1] "(1) *a local authority may from time to time, for the purpose of providing temporarily for any current expenses that may be incurred by them in the execution or performance of any of their powers and duties (including the payment of sums due by them to meet the expenses of other authorities), with the consent of the Minister of Health, borrow by way of temporary loan or overdraft from any bank or otherwise, such sums as they may from time to time resolve, not exceeding in the aggregate at any time such amount as may be sanctioned by the Minister of Health.* (2) *Any amount borrowed under this section shall be charged on the funds, properties, rates and revenues of the local authority pari passu with all other mortgages, stock, and other securities affecting the same.* (3) *All sums borrowed by a local authority under this section together with the interest thereon shall be repaid out of the revenue of the local authority received in respect of the financial year in which the expenses were incurred: Provided that, as respects money borrowed under this section before the* 1*st day of April,* 1923, *the Minister may, if satisfied that the particular circumstances of the case justify such a course, extend the term within which such repayment is to be made for a period not exceeding ten years from the date on which the money is borrowed.* (4) [*Metropolitan Common Poor Fund.*] (5) *The powers conferred by this section on any local authority shall be in addition to and not in derogation of any other powers of borrowing exercisable by the authority.*"

SECT. 115. [*Parish property.*]

(1) Any parish property vested at the appointed day in a board of guardians, including the proceeds of sale of parish property and any securities in which those proceeds have been

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[1] 11 & 12 Geo. V, c. 67, s. 3.

invested, shall, on the appointed day, by virtue of this section be transferred to and vest in such council or body as is hereinafter mentioned; that is to say—

(*a*) if the parish is a parish comprised in a county borough or urban district, the council of the county borough or urban district;

(*b*) if the parish is a rural parish having a parish council, the parish council;

(*c*) if the parish is a rural parish not having a parish council, the representative body constituted for the holding of property of the parish:

Provided that, where the parish property is held on behalf of two or more parishes, it shall be transferred to and vest in the appropriate councils or bodies jointly.

(2) As from the appointed day the provisions set out in the Seventh Schedule to this Act shall have effect with respect to the sale, exchange, letting and disposal of parish property, and of any land to which the Sale of Exhausted Parish Lands Act, 1876, applies; and any enactment requiring the consent of the ratepayers and owners of property in a parish to the sale, exchange, letting or disposal of parish property shall cease to have effect:

Provided that nothing in that Schedule shall extend to any recreation ground, village green or other open space dedicated to the use of the community, or affect the powers of parish councils as to the letting, sale or exchange of property under section 8 (2) of the Local Government Act, 1894.

(3) The council of any county borough or urban district and the parish meeting of any rural parish not having a parish council may exercise the powers of executing works in relation to parish property which are by section 8 (1) (i) of the Local Government Act, 1894, conferred on parish councils.

(4) Any expenses incurred by the council of a county borough or urban district in relation to parish property shall be defrayed as the council may determine—

(*a*) from the general rate of the county borough or urban district; or

(*b*) by means of a levy of an additional item of the general rate on the parish or parishes to which the property belongs.

(5) Where two or more rural parishes are grouped under a common parish council, the reference in subsection (1) of this

section to a parish council shall include a reference to the common parish council, except that where functions in relation to the holding of parish property are by the order forming the group excluded from the functions exercisable by the common parish council that reference shall as respects each of the grouped parishes be construed as a reference to the representative body constituted for the holding of property of that parish.[1]

(6) For the purposes of this section and the Seventh Schedule to this Act, "parish property" means any property the rents and profits of which are applicable or, if the property were let, would be applicable to the general benefit of one or more parishes, or the ratepayers, parishioners or inhabitants thereof, but does not include—

(*a*) property given or bequeathed by way of charitable donation or allotted in right of some charitable donation or otherwise for the poor persons of any parish or parishes if the income of the property is not applicable to the general benefit of the ratepayers or other persons as aforesaid;

(*b*) property acquired by a board of guardians for the purposes of their functions in the relief of the poor.

(7) In the application of this section to the county of London references to an urban district shall be construed as references to the City of London and to a metropolitan borough, references to the council of an urban district shall be construed as references to the common council of the City of London and to the council of a metropolitan borough, and references to the general rate of an urban district shall be construed as references to the general rate of the parish to which the property belongs.

Note.

EXHAUSTED PARISH LANDS.—*As to subsect.* (2), "*land to which the Sale of Exhausted Parish Lands Act,* 1876, *applies*" *is, by sect.* 1 *of that Act,*[2] *land which* "*has been allotted to or otherwise acquired by a parish, whether in the name of the surveyor of highways or other trustees, or generally for the purpose of the supply of materials for the repair of the public roads and highways in such parish, and also for the repair of private roads therein, or for some*

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(1) As to the "grouping" of parishes, see Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 1 (1) (*b*), 19, 38–40, and 55 (1), and Glen's P.H. at pp. 1995, 2023, 2066, and 2090.

(2) 39 & 40 Vict. c. 62, s. 1. See also, as to such lands, the Highway Acts, 1835 and 1845 (5 & 6 Wm. IV, c. 50 s. 48; 8 & 9 Vict. c. 71, s. 1).

other purpose, public or private, and the materials in such land shall be exhausted, or shall not be suitable or required, and the land shall not be available for such other purpose, if any."

DISPOSAL OF PARISH PROPERTY.—*As to the proviso to subsect.* (2), *by sect.* 8 (2) *of the Local Government Act,* 1894,[1] "*a parish council may let, or, with the consent of the parish meeting, sell or exchange, any land or buildings vested in the council, but the power of letting for more than a year and the power of sale or exchange shall not be exercised, in the case of property which has been acquired at the expense of any rate, or is at the passing of this Act applied in aid of any rate, or would but for want of income be so applied, without the consent of the* [*Minister of Health*], *or in any other case without such consent or approval as is required under the Charitable Trusts Acts,* 1853 *to* 1891, *for the sale of charity estates, provided that the consent or approval required under those Acts shall not be required for the letting for allotments of land vested in the parish council.*"

The words in sect. 8 (2), "*such consent or approval as is required under the Charitable Trusts Act,* 1853 *to* 1891, *for the sale of charity estates,*" *appear to refer to sect.* 29 *of the Charitable Trusts Amendment Act,* 1855,[2] *which enacts that* "*it shall not be lawful for the trustees or persons acting in the administration of any charity to make . . . otherwise than with the express authority of Parliament, under any Act already passed or which may hereafter be passed, or of a court or judge of competent jurisdiction, or according to a scheme legally established, or with the approval of the Board* [*i.e. the Charity Commissioners, or now, in the case of an endowment held for educational purposes only, the Board of Education* [3]], *any sale . . . of the charity estate . . . .*" *As to sect.* 29, *see the cases cited below.*[4]

Sect. 24 *of the Charitable Trusts Act,* 1853,[5] *provides that* "*upon application to the said Board by the trustees or persons acting in the administration of any charity, representing to the said Board that, under the special circumstances of any land belonging to the charity, a sale or exchange of such land can be effected on such terms as to increase the income of the charity, or would otherwise be advantageous to the charity, such Board may, if they think fit, inquire into such*

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(1) 56 & 57 Vict. c. 73, s. 8 (2). See Glen's P.H. at pp. 2004–2007.

(2) 18 & 19 Vict. c. 124, s. 29.

(3) See the Board of Education (Powers) Orders in Council, 1900 to 1902.

(4) *Re Mason's Orphanage,* L.R. 1896, 1 Ch. 596; 65 L.J. Ch. 439; 74 L.T. 161; *Fell* v. *Official Trustee of Charity Lands,* L.R. 1898, 2 Ch. 44; 67 L.J. Ch. 385; 78 L.T. 474 62 J.P. 804.

(5) 16 & 17 Vict. c. 137, s. 24.

circumstances, and if after inquiry they are satisfied that the proposed sale or exchange will be advantageous to the charity may authorise the sale or exchange, and give such directions in relation thereto, and for securing the due investment of the money arising from any such sale, or by way of equality of exchange for the benefit of the charity, as they may think fit."

As to subsect. (3) *of the present section, the powers conferred by sect.* 8 (1) (*i*) *of the Local Government Act,* 1894,[1] *are "to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the church or held for an ecclesiastical charity." By sect.* 75 (2) *of the Act of* 1894,[2] *"the expression 'affairs of the church' shall include the distribution of offertories or other collections made in any church," and "the expression 'ecclesiastical charity' includes a charity, the endowment whereof is held for some one or more of the following purposes:* (*a*) *for any spiritual purpose which is a legal purpose; or* (*b*) *for the benefit of any spiritual person or ecclesiastical officer as such; or* (*c*) *for use, if a building, as a church, chapel, mission room, or Sunday School, or otherwise by any particular church or denomination; or* (*d*) *for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or* (*e*) *otherwise for the benefit of any particular church or denomination, or of any members thereof as such. Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application of any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act. The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination."*[3]

Sched. VII of the present Act contains the following "Provisions as to the Sale, &c., of Parish Property":—" 1. *The council, representative body or other persons in whom any parish property is vested*

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(1) 56 & 57 Vict. c. 73, s. 8 (1) (i).

(2) *Ibid.*, s. 75 (2).

(3) As to the meaning of "any particular church or denomination," see *Re Perry Almshouses*, L.R. 1899, 1 Ch. 21; 68 L.J. Ch. 66; 79 L.T. 366.

may, with the approval of the Minister, and, where the property is held for the benefit of a rural parish, subject to the consent of the parish meeting of that parish, sell exchange let or otherwise dispose of the property : Provided that in the case of a letting for a term not exceeding one year neither the approval of the Minister nor the consent of the parish meeting shall be necessary. 2. *Where parish property is sold, the proceeds of sale, after deducting reasonable expenses, shall be applied in such manner as may be directed by the Minister either in repayment of debt, or for any purpose to the permanent advantage of the parish which may be approved by the Minister.* 3. *Where parish property is exchanged, the land taken in exchange shall be conveyed to the council body or persons in whom the parish property was vested on the trusts on which the land given in exchange was held, and the rents and profits of the land taken in exchange shall be applied to the same purposes as those to which the rents and profits of the land given in exchange would have been applicable.* 4. *If the parish property is let, the rents and profits thereof shall be applied for the benefit of the parish.* 5. *The provisions of this Schedule shall extend to property in which two or more parishes are jointly interested subject to the necessary modifications, and in particular to this modification, that the proceeds of the sale of such property or the rents and profits arising from the letting thereof, shall be divisible between the parishes interested in the property in such proportions as the Minister may determine.* 6. *Where in pursuance of this Schedule parish property is sold, exchanged, let or otherwise disposed of by a council or representative body or other persons, no instrument relating to the transaction shall be charged or chargeable with any stamp duty.* 7. *This schedule shall apply to land to which the Sale of Exhausted Parish Lands Act,* 1876, *applies in like manner as it applies to parish property, subject, however, to the provisions of that Act.*"

SECT. 116. [*Transfer of property and liabilities under Registration Acts.*]

Any property and liabilities held or incurred by or on behalf of a board of guardians for the purposes of their functions under the Registration Acts in relation to any registration district or sub-district shall on the appointed day, by virtue of this section, be transferred to and vest in the council to whom the functions of the board of guardians in relation to that registration district or sub-district are transferred under Part II of this Act.[1]

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(1) See ss. 21–28, *ante.*

SECT. 117. [*Transfer of road property and liabilities.*]

(1) Subject to the provisions of the next following section, the following property and liabilities of every district council, in so far as they relate to any roads which immediately before the appointed day were, or as from that day become, vested in the county council, shall, as from that day, by virtue of this section be transferred to and vest in the county council, that is to say :—

(*a*) any land (other than land acquired for the improvement or development of frontages or of lands abutting on or adjacent to any road) which, before the appointed day, has been acquired by the district council for the purpose of improving any such road, but which does not on that day form part of the road;[1]

(*b*) the unexpended balances of any loans raised by the district council for the purposes of any such roads or for the purposes of any land transferred to the county council under the last foregoing paragraph of this subsection, and any sinking funds established by the district council in connection with any such loans;

(*c*) the unexpended balances of any grants paid by the Minister of Transport to the district council for the purposes of any such roads;

(*d*) all liabilities (including loans and loan charges) incurred for the purposes of any such roads or the improvement thereof which would become due for payment by the district council on or after the appointed day:

Provided that in the case of any loan the county council and the district council may agree that, in lieu of the transfer to the county council of the loan under this subsection, the county council shall from time to time repay to the district council all sums required to meet the loan charges; and in the event of any such agreement being made, the loan and any sinking fund established in connection therewith shall remain vested in the district council.[2]

Where the loan has been raised partly for purposes relating to such roads as aforesaid and partly for other purposes, the foregoing provisions of this subsection shall apply as if the part of the loan contracted for purposes relating to such roads were a separate loan.

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(1) By s. 134, "improvement in relation to a road includes the fixing of a building line or improvement line under any enactment." As to such lines, see P.H. Act, 1875, s. 155 and enactments cited in Note thereto in Appendix, *post*, p. 275.

(2) By s. 134, "sinking fund includes any fund for the redemption of debt."

(2) Any sum due to be paid by a district council before the appointed day into any sinking fund which the council were required to establish for the purposes of any loan transferred to the county council under the last foregoing subsection but not so paid shall be a debt due from the district council to the county council.[1]

(3) In the case of a road in respect of which before the appointed day an urban district council have claimed or are deemed to have claimed to exercise the functions of maintenance and repair, the county council shall from time to time repay to the district council such sums as are required to meet any loan charges falling due on or after the appointed day in respect of loans raised before that day for the purposes of the road or the improvement thereof.[2]

(4) So much of any sum paid or payable to a district council under the Local Government (Adjustments) Act, 1913, or otherwise by way of adjustment on alteration of boundaries or other change, as represents compensation to the council in respect of the increase of the burden on the ratepayers in meeting the cost incurred by that council in the execution of their functions in respect of roads to which this section applies and has not, on the appointed day, been exhausted or applied in or towards the discharge of liabilities transferred to the county council under this section or which would have been so transferred if undischarged, shall, in the case of a sum paid or payable to the district council by another district council within the county, be repaid to that council, and in any other case be paid to the county council.[3]

The sum payable by a district council to another council under this subsection shall be of such amount as may be agreed between those councils, or, in default of agreement, determined by an arbitrator appointed by the Minister, and shall be paid either by a single payment or by annual instalments, as may be determined by agreement between the councils or by such arbitrator as aforesaid, and if paid by a single payment, the payment shall be a purpose for which the district council may borrow under the Public Health Acts, 1875 to 1926.[4]

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(1) By s. 134, "sinking fund includes any fund for the redemption of debt."

(2) As to the "retaining" of county roads, see ss. 32 and 33 and Notes thereto, *ante.*

(3) As to the Act of 1913, see s. 108 (2) and Note, *ante.*

(4) See P.H. Act, 1875, s. 234 in Appendix, *post,* p. 284. The Act of 1926 is the Public Health (Smoke Abatement) Act, 1926 (16 & 17 Geo. V, c. 43).

For the purposes of this subsection, unless the arbitrator for special reasons otherwise determines, a sum paid to a district council by way of such adjustment as aforesaid shall be deemed to be exhausted at the expiration of a period of twenty years from the date on which the alteration of boundaries or other change took effect, and if the sum was payable by instalments one-twentieth part shall be deemed to have been paid to the council in respect of each year during that period.

(5) As respects any council whose district extends into more than one county, this section shall have effect as if references therein to the county council included references to the councils of the several counties, and the property and liabilities transferred by this section and any sum payable thereunder shall be apportioned between them, by agreement between the county councils or in default of agreement by the Minister, in proportion to the reduced rateable values of the parts of the district within the several counties.[1]

(6) Any question as to the property or liabilities transferred from or to any council under this section shall be determined by the Minister, whose decision shall be final and conclusive.

(7) Any capital sum paid to a county council under this section shall be treated as capital, and applied with the sanction of the Minister either in repayment of debt or for any other purpose for which capital money may be applied.

(8) Where any person or authority, other than a rating authority, receives any income applicable to the repair or maintenance of roads in any parish or other area, that person or authority shall pay over the income so received (less the amount of any expenses properly incurred in connection therewith) to the rating authority for the county borough or district in which that parish or area is situate, to be credited to that parish or area.

SECT. 118. [*Transfer of quarries, plant, materials, and depots.*]

(1) The council of every county shall, on the appointed day, take over—

(*a*) if desired by the council of any urban district within the county (not being a council who have claimed or are deemed to have claimed to exercise the functions of maintenance and repair of county roads within their district), any quarry belonging to the district council in their capacity as highway authority, together with any fixed plant therein; and

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(1) For definition of "reduced rateable value," see s. 134.

(*b*) if desired by the council of any rural district within the county, any quarry, plant or materials belonging to the district council in their capacity as highway authority, or any depots used by the district council exclusively in that capacity,

and shall pay therefor such sum as may be agreed upon, or, in default of agreement, as may be determined by an arbitrator appointed by the Minister; but the district council shall, save in so far as may be otherwise agreed between them and the county council, remain subject to any liabilities contracted in respect of any such quarry, plant, material or depots.

(2) Where in pursuance of Part III of this Act a district council relinquish, or a county council determine the delegation of, any functions with respect to the maintenance, repair or improvement of, or other dealing with, any road, the last foregoing subsection shall apply as if the date on which the relinquishment or determination takes effect were the appointed day and, in the case of a rural district council, as if the rural district council had on that date been a highway authority.[1]

(3) Where a district extends into more than one county, the obligation under this section shall be undertaken by such one of the county councils or partly by one such council and partly by another as may be agreed between the councils concerned, or as in default of agreement may be determined by the Minister.

(4) Any capital sum paid to a district council under this section shall be treated as capital, and applied with the sanction of the Minister either in repayment of debt or for any other purpose for which capital money may be applied.

Transfer of Officers.[2]

SECT. 119. [*Transfer of poor law officers.*]

Subject to the provisions of this Part of this Act, any person who having been on the twelfth day of November, 1928, an

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(1) As to relinquishment, etc., see ss. 35 and 36, *ante*.

(2) "Officer includes servant," see s. 134.

officer of a poor law authority is at the appointed day an officer of the same or any other poor law authority shall on the appointed day, as respects that office, be transferred as follows :—

(*a*) where the area of the authority of which he is an officer at the appointed day is wholly comprised within one county or county borough, he shall be transferred to and become an officer of the council of that county or county borough;

(*b*) where the area of the poor law authority of which he is an officer at the appointed day is not wholly comprised within one county or county borough, then—

(i) if the officer is at the appointed day employed in or about any poor law institution, he shall be transferred to and become an officer of the council to whom that institution is transferred;

(ii) if the officer at the appointed day acts exclusively for a district which is wholly comprised within one county or county borough, he shall be transferred to and become an officer of the council of that county or county borough;

(iii) in any other case he shall be transferred to and become an officer of such council or councils as may be agreed between the councils concerned, or, if no agreement is arrived at two months before the appointed day, such council or councils as the Minister may by order determine; and where he is transferred to more than one council the proportion of his salary or remuneration attributable to the functions in respect of which he is transferred to the respective councils shall be determined by such agreement or order as aforesaid.

SECT. 120. [*Transfer of road officers.*]

Subject as hereinafter provided, any person who, having been on the twelfth day of November, 1928, a road officer employed by any highway authority, is at the appointed day a road officer of a rural district council shall, on the appointed day, as respects that office, be transferred as follows :—

(*a*) where the district of the council of which he is a road officer at the appointed day is wholly comprised within one county he shall be transferred to and become an officer of the council of that county;

(*b*) where the district of the council of which he is a road officer at the appointed day is not wholly comprised within one county he shall be transferred to and become an officer of such county council as may be agreed between the councils concerned, or, if no agreement is arrived at two months before the appointed day, such county council as the Minister of Transport may by order determine:

Provided that, where in pursuance of Part III of this Act functions as respects any county roads are delegated as from the appointed day by a county council to a rural district council, the two councils may agree for the transfer or retention to or by either such council of any road officers or for the joint user by both councils of the services of any officer and, subject to any such agreement, so long as the rural district council exercise those functions, the foregoing provisions of this section shall not apply with respect to the officers of that rural district council, but as from the date on which such functions cease to be exercisable by the district council by reason of the relinquishment of functions by the district council or the determination of the delegation of the functions by the county council, the said provisions and the provisions of this Act relating to the superannuation and compensation of road officers shall apply with respect to the district council and their officers as if that date were the appointed day.

SECT. 121. [*Tenure and distribution of transferred officers.*]

(1) Every transferred officer shall hold office by the same tenure and on the same conditions as immediately before the appointed day, and while performing similar duties shall, in respect thereof, receive not less salary or remuneration than the salary or remuneration to which he would have been entitled if this Act had not been passed.

(2) The council to whom functions are transferred under this Act may employ a transferred officer in the discharge of such of their functions as they may think proper, and every officer shall perform such duties in relation to those functions as may be directed by the council.

SECT. 122. [*Provisions as to registration officers.*]

Every person who is a registration officer on the appointed day shall hold office by the same tenure and on the same conditions as immediately before the appointed day, and, for the purpose of the Poor Law Officers Superannuation Act, 1896,[1] and the provisions of this Part of this Act relating to superannuation, shall be deemed to be an officer transferred to the service of the council to whom the functions of the board of guardians in relation to the registration district or sub-district for which he acts are transferred under Part II of this Act.

Compensation and Superannuation of Officers.

SECT. 123. [*Compensation to existing officers.*]

(1) Every person who having been an officer of an authority or committee from whom functions are transferred under this Act, or a registration officer or registrar of marriages, on the twelfth day of November, 1928, is at the appointed day an officer of such an authority or committee or a registration officer or registrar of marriages, and who by virtue of this Act, or of anything done in pursuance or in consequence thereof, suffers any direct pecuniary loss by determination of his appointment, or by diminution or loss of fees, salary or emoluments, and for whose compensation for that loss provision is not made by any other enactment for the time being in force, shall be entitled to compensation under this Act for that loss.

(2) Any claim to compensation made by an officer may be addressed to the council or councils by whom his appointment has been determined or his fees, salary, or emoluments have been altered, or to such council as may be determined by the Minister under this Act; but where compensation from more than one council is claimed by an officer, the councils concerned may agree that the claim shall be considered and decided and any compensation awarded paid by one of those councils, subject nevertheless to such apportionment between them of any compensation awarded as may be agreed between the councils or, in default of agreement, determined by the Minister.

(3) For the purposes of this section, any officer—

(*a*) who, at any time within five years after the appointed day, relinquishes office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before the appointed day; or

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(1) 59 & 60 Vict. c. 50.

(*b*) whose appointment is determined or whose salary is reduced within five years after the appointed day because his services are not required, or his duties are diminished, and not on the ground of misconduct;

shall be deemed, unless the contrary is shown, to have suffered a direct pecuniary loss in consequence of this Act.

(4) The provisions set out in the Eighth Schedule to this Act shall apply to the determination and payment of compensation under this Act to officers.

Note.

COMPENSATION FOR LOSS OF OFFICE.—*As to the determination of questions relating to compensation, see sect.* 126. *Sched. VIII contains the following: "Provisions as to the Determination and Payment of Compensation to Officers :—*

" 1. *For the purpose of determining whether compensation is payable to an officer and, if so, the amount of such compensation, regard shall be had to*—(a) *the conditions upon which his appointment was made ;* (b) *the nature of his office or employment ;* (c) *the duration of his service ;* (d) *any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance or in consequence of this Act ;* (e) *the emoluments which he might have acquired if he had not refused to accept any office offered by any council acting under this Act ; and* (f) *all the other circumstances of the case, and the compensation shall not exceed the amount which under the Acts and Rules relating to Her Majesty's Civil Service which were in operation on the thirteenth day of August,* 1888, *would have been payable to a person on abolition of office.*[1]

2. *Every person who claims to be entitled to compensation shall deliver to the council a claim on account of the emoluments for which he claims compensation, setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the date on which the relinquishment of office or determination of appointment takes effect, or the direct pecuniary loss commences, as the case may be, distinguishing the offices in respect of which the emoluments have been*

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(1) Namely, one-sixtieth for each year of service plus the sixtieths in brackets : 20 years and upwards (10), 15 and less than 20 (7), 10 and less than 15 (5), 5 and less than 10 (3), and under 5 (1), subject to a reasonable reduction for non-wholetime officers. And see clause 9 of this Schedule.

received, and accompanied by a statutory declaration that the claim so delivered is a true statement according to the best of his knowledge, information and belief.

3. *Every claim so delivered as aforesaid shall be submitted to the council, who shall forthwith take it into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision, and if a council fail to inform any claimant of their decision upon his claim within six months after it has been so delivered to them, the Minister may, on application made to him in that behalf by the claimant, direct the council to do so within such time, not being less than one month, as may be specified in the direction.*

4. *Any claimant, if so required by any member of the council, shall attend at a meeting of the council, or of any committee appointed by the council for the purpose, and answer upon oath, which any justice present may administer, all questions asked by any member of the council or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.*

5. *In computing the service of any officer for the purpose of the award of compensation, the council shall take into account all the service of that officer after he attained the age of eighteen years under any local authority: Provided that, where the officer held two or more offices and the claim to compensation is based on a loss of one or some only of those offices, account shall not be taken under this paragraph of service in an office which the officer continues to hold, unless throughout the period of his service in that office he devoted the whole of his time to the duties of offices held by him under one or more local authorities.*

6. *If an appointment is determined by a council otherwise than at the expiration of a complete year of service of an officer, the portion then expired of that year shall be treated as a complete year where such portion exceeds six months, and shall be ignored where such portion does not exceed six months.*

7. *The compensation payable under this Act to an officer who immediately before the appointed day held two or more offices under any one or more local authorities and who devoted the whole of his time to the duties of such offices, shall not be reduced by reason of the fact that he has devoted only part of his time to each of such offices.*

8. *If any officer was temporarily absent from his employment during the late war whilst serving in His Majesty's forces, or the*

forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the local authority, such period of temporary absence shall be reckoned as service under the authority in whose employment he was immediately before and after such temporary absence : Provided that in the case of an officer who, after the armistice, voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

9. *The council to whom application for compensation is made may, in their discretion and in consideration of the fact that any officer was appointed to his office as a specially qualified person, or that the officer before his appointment had been employed as a deputy, assistant or clerk by a permanent officer for the purpose of the discharge of his official duties, add any number of years (not exceeding ten) to the number of years which such officer would otherwise be entitled to reckon for the purpose of computing the compensation to which he would be entitled under the Acts and rules relating to Her Majesty's Civil Service as applied by this Act.*

10. *The compensation shall not exceed two-thirds of the annual pecuniary loss suffered by virtue of this Act, or of anything done in pursuance or in consequence of this Act, or if the compensation is payable otherwise than by way of an annual sum, the capital value of such annual sum as might have been awarded.*

11. *No service of which account has been taken in assessing the compensation payable under this Act to an officer in respect of the determination or relinquishment of any appointment held by him shall, in the event of his accepting any other office after the commencement of this Act, be reckoned for the purpose of computing any sum payable in respect of that office under any superannuation scheme or other scheme for ensuring benefits to an officer on retirement whether under any enactment or otherwise.*

12. *The sum payable as compensation to any person in pursuance of this Schedule shall commence to be payable at the date fixed by the council on granting the compensation, or, in case of appeal, by the Minister, and shall be a specialty debt due to him from the council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the sum.*

13. *If a claimant is aggrieved by the failure of the council to inform him of their decision upon his claim within the time required by any directions of the Minister or by the refusal of the council to grant any compensation, or by the amount of compensation assessed, the claimant may, within three months after the failure, or after the date on which he receives notice of the decision of the council, as the case*

may be, appeal to the Minister, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and his determination shall be final.

14. *If a person receiving compensation under this Schedule is appointed to any office under the Crown or any local or other public authority, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of the emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds that office.*

15. *All expenses incurred by a council in connection with payment of compensation to any officer shall be payable as part of the general expenses of the council, and if any compensation is payable otherwise than by way of an annual sum, the payment of the compensation shall be a purpose for which the council may borrow, subject to the consent of the Minister, and upon such terms as he may authorise.*

16. *For the purposes of this Schedule*—(a) *the expression "emoluments" includes fees and salaries ; and* (b) *the office of a registration officer or registrar of marriages shall be deemed to be an office held under a local authority ; and* (c) *the office of a teacher in a public elementary school maintained but not provided by a local education authority shall be deemed to be an office under the authority ; and* (d) *the expression "local authority" means any local authority as defined in section* 3 *of the Local Government and other Officers' Superannuation Act*, 1922."

Sect. 3 *of the Local Government and other Officers' Superannuation Act*, 1922,[1] *provides that "local authority means the council of any county, county borough, urban district, or rural district, and any other authority within the meaning of the Local Loans Act*, 1875, *and includes any combination of local authorities under this Act : Provided that no local authority or combination of local authorities shall be entitled to adopt this Act unless there are in the service of such authority or of the authorities so combining, as the case may be, not less than fifty officers or servants occupying posts proposed to be designated as established posts for the purposes of this Act." By sect.* 34 *of the Local Loans Act*, 1875,[2] *"local authority means the*

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(1) 12 & 13 Geo. V, c. 59, s. 3. (2) 38 & 39 Vict. c. 83, s. 34.

justices of any county, liberty, riding, parts, or division of a county, in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority." The same section defines "rate" as meaning "a rate the proceeds of which are applicable to public local purposes and leviable on the basis of an assessment in respect of property, and includes any sum, which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some authority or officer, is or can be ultimately raised out of a rate, and the levy of a rate includes the issue and enforcement of any such precept, certificate, or document as aforesaid, and expressions relating to the levy and the assessment and making of a rate shall be construed accordingly" ; and "prescribed" as meaning "prescribed by any Act passed either before or after the passing of this Act authorising a local authority to borrow money."

SECT. 124. [*Superannuation of transferred poor law officers.*]

(1) Where any officer by whom the annual contributions required by the Poor Law Officers' Superannuation Act, 1896 (in this section referred to as "the Act of 1896"), have been made is, by virtue of this Act, transferred to the service of any council, then, if the council to whose service he is transferred have no superannuation scheme or if, in the case of an officer transferred to the service of a council who at the appointed day have such a scheme, he gives, within three months after the appointed day, notice in writing to that council that he elects to remain subject to the provisions of the Act of 1896, that Act shall apply to him subject to such modifications as the Minister may by order direct, and shall continue so to apply to him so long as he is in the service of the council of any county or county borough until, under such statutory provisions as may be made for the superannuation of persons employed by the councils of all counties and county boroughs, there becomes applicable to him a superannuation scheme not less favourable than that provided by paragraph (*a*) of the next following subsection.

(2) As respects any such officers as aforesaid who, having been so transferred to the service of a council who at the appointed day have a superannuation scheme, do not give notice in accordance with the provisions of the last foregoing subsection, as from the appointed day the provisions of the Act of 1896 shall cease to apply and the following provisions shall have effect :—

(*a*) in the case of officers transferred to the service of a council who have, on or before the appointed day, adopted the

Local Government and other Officers' Superannuation Act, 1922 (in this section referred to as "the Act of 1922"), whether alone or in combination with any other local authority, the provisions of the Act of 1922 shall apply to them while in that service, or in any service in which the said provisions continue to apply to them by virtue of section 8 of the said Act, subject to the following modifications :—

(i) for the purposes of the Act of 1922, any service before the date on which the Act of 1922 becomes applicable to the officer which would have been treated as service for the purposes of the Act of 1896 shall be treated as contributing service, and contributions paid under the Act of 1896 (except so far as those contributions are attributable to service in respect of which the officer is not transferred under this Act) shall for the purpose of the provisions of the Act of 1922 relating to the return of contributions be treated as having been paid under the Act of 1922; and

(ii) the contributions payable by any such officer under the Act of 1922 shall be the following :—

(*i*) if on such date as aforesaid the officer has completed less than ten years service which would have been treated as service for the purposes of the Act of 1896, a sum equal to two-and-a-half per cent. of his salary or wages;

(*ii*) if on such date as aforesaid he has completed ten but less than twenty years of such service as aforesaid, a sum equal to three per cent. of his salary or wages;

(*iii*) if on such date as aforesaid he has completed twenty years of such service as aforesaid, a sum equal to three-and-a-half per cent. of his salary or wages;

(iii) the second proviso to section 7, section 15 (3) and section 16 (4) of the Act of 1922 shall not apply;

(iv) sect. 8 (1) of the Act of 1922 shall have effect as if the words "a designated post in" were omitted therefrom;

(v) where any such officer was, immediately before the appointed day, one of the holders of a joint appointment, then, if after he has attained the age of fifty years or completed twenty years' service he loses his office or employment by reason of the death, resignation, or insanity of the other holder thereof and is not re-appointed, he shall, in lieu of being entitled to a return of contributions under section 10 of the Act of 1922, be entitled to a superannuation allowance under that Act, so, however, that this provision shall not apply where a joint appointment held by a husband and wife is terminated owing to misconduct of one of them;

(vi) the equal annual charge payable by the council to the superannuation fund under section 18 (1) (*e*) of the Act of 1922 shall be increased by such amount, if any, as may be certified by an actuary within the meaning of that Act to represent the additional burden imposed on the fund by the application of the Act of 1922 t such officers as aforesaid under this subsection:

(*b*) in the case of officers transferred to the service of a counci who have not, on or before the appointed day, adopted the Act of 1922 but who have on that date some othe superannuation scheme, the council shall prepare and submit to the Minister an amending scheme for applying the superannuation scheme to those officers while in that service and for adequately protecting their rights and interests, and upon the amending scheme being approve by the Minister, with or without modifications, the super annuation scheme shall have effect as thereby amended

(3) For the purpose of the foregoing provisions of this section the expression "superannuation scheme" includes any scheme for ensuring benefits to an officer on retirement.

(4) Where any officer on his transfer by virtue of this Act t a council becomes an officer to whom the Asylum Officers' Super annuation Act, 1909, as extended by the Asylum and Certifie Institutions (Officers Pensions) Act, 1918, applies, the foregoin provisions of this section shall not apply to him; but if he is a officer by whom the contributions required by the Act of 189 have been made, any service before the appointed day which woul have been treated as service for the purposes of the Act of 189 shall be treated as service for the purposes of the Asylum Officers Superannuation Act, 1909, as so extended, and for the purpos of the provisions of that Act relating to the return of contri butions, contributions paid under the Act of 1896 shall b

treated as having been paid under the Asylum Officers' Superannuation Act, 1909.

(5) In the case of any officer transferred by virtue of this Act who has made the contributions required by the Act of 1896 and is a teacher who if he were serving in a public elementary school would be in contributory service under the Teachers' (Superannuation) Act, 1925 (in this section referred to as "the Act of 1925") the following provisions shall apply in lieu of the foregoing provisions of this section :—

(*a*) as from the appointed day the Act of 1896 shall cease to apply to the officer and the Act of 1925 shall apply to him as if he were a teacher in a public elementary school :

(*b*) any service before the appointed day which would have been treated as service for the purposes of the Act of 1896 shall be treated as recognised or contributory service under the Act of 1925, and contributions paid under the Act of 1896 shall, for the purpose of the provisions of the Act of 1925 relating to the return of contributions, be treated as having been paid under the Act of 1925 :

(*c*) when any allowance, gratuity, or balance of contributions becomes payable to or in respect of the officer under Part II of the Act of 1925 the council to whom he is transferred shall, either by means of a single payment or by means of such periodical payments as the Treasury may determine, pay to the Board of Education such sum as may be determined by the Treasury to represent, after taking into account any sum previously paid on account of that officer under this paragraph, the present value of such part of the sums payable or to become payable to or in respect of him under Part II of the Act of 1925 as is attributable to service which is treated as recognised or contributory service under the last foregoing paragraph :

(*d*) all sums payable to the Board of Education under the last foregoing paragraph shall be recoverable by that Board.

(*e*) so much of proviso (*a*) to section 2 (1) of the Act of 1925 as provides that no service in respect of which contributions are payable under the Act of 1896 shall be deemed to be contributory service for the purposes of the Act of 1925 shall cease to have effect as from the appointed day.

Note.

SUPERANNUATION ACTS.—*Sect.* 8 *of the Local Government and other Officers* (*Superannuation*) *Act*, 1922,[1] *which is referred to in subsects.* (2) (*a*) *and* (2) (iv) *of the present section, provides that* "(1) *Where an officer or servant transfers from the service of one local authority who have adopted this Act, with the consent of that authority, to* [a designated post in[2]] *the service of another local authority who have adopted this Act, within six months of leaving the service of the first-mentioned authority, and has been a contributor to the superannuation fund of that authority, the first-mentioned local authority shall pay out of the superannuation fund to the local authority to whom the officer or servant so transfers, a transfer value ascertained in accordance with rules made for the purpose by the Minister, and in that case the officer or servant shall be entitled to such rights in respect of service before the date of transfer as he would have been entitled to if such service had been with the local authority to whom he has transferred: Provided that any officer or servant may appeal to the Minister against the refusal of a local authority to give their consent to any such transfer, and the Minister after consulting the local authority may give his consent, which shall be equivalent to the consent of the local authority.* (2) *Where an officer or servant transfers from the service of a local authority who have not adopted this Act to the service of a local authority who have adopted this Act, within six months of leaving the service of the first-mentioned authority, he shall, if he pays in lieu of transfer value a sum or sums to be ascertained in accordance with rules to be made by the Minister, be entitled to reckon service with that authority in whole or part in accordance with the amount of the sum so paid and in accordance with such rules.* (3) *No service with another local authority shall be reckoned under this section unless the officer or servant transferring has, within six months after the transfer, satisfied the local authority to whom he transfers that he has been in the service of another authority or authorities.*"

By sect. 18 *of the same Act,*[3] *which is referred to in subsect.* (2) (*a*) (*vi*), "(1) *The local authority shall establish and administer a superannuation fund, to which shall be carried and credited in each year* (a) *the amounts deducted in such year under the provisions of this Act from the salaries and wages of officers and servants contributing to the superannuation fund ;* (b) *a sum equal in amount to the sum which during such year has been contributed to the superannuation*

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[1] 12 & 13 Geo. V, c. 59, s. 8.

[2] These words "to be omitted"—see s. 124 (2) (iv).

[3] 12 & 13 Geo. V, c. 59, s. 18.

fund by officers or servants (in this Act referred to as "the equivalent contribution") and such further sums, if any, as the local authority may become liable to carry and contribute thereto under the provisions of this Act ; (c) *all dividends and interest arising in such year out of the investment or use of the superannuation fund or any part thereof ;* (d) *the amount of any transfer values or payments in lieu of transfer values received by the local authority under this Act ; and* (e) *such amount as may be certified by an actuary, as soon as may be after the appointed day, as necessary in order that the superannuation fund may be solvent, to be calculated so as to cast upon the local authority, so far as may be, an equal annual charge for a period not exceeding forty years from the appointed day.* (2) *The equivalent contribution and the equal annual charge shall be made out of the same funds, rates, and revenues as those upon which the salaries or wages from which the said amounts so deducted are charged."*

The other enactments referred to in the present section, namely, the Poor Law Officers (Superannuation) Act, 1896,[1] *the remainder of the Act of* 1922,[2] *the Asylum Officers' Superannuation Act,* 1909,[3] *the Asylum and Certified Institutions (Officers Pensions) Act,* 1918,[4] *and the Teachers Superannuation Act,* 1925,[5] *are too long for inclusion in this work.*

The Rating and Valuation (Superannuation of Transferred Officers) Order, 1928, *will be found in the work mentioned below.*[6]

SECT. 125. [*Superannuation of transferred road officers.*]

(1) Where before the appointed day a district council from whom any road officer is transferred under this Part of this Act had, whether alone or in combination with any other local authority, adopted the Local Government and other Officers' Superannuation Act, 1922 (hereinafter in this section referred to as "the Act of 1922") and the officer held a post which on that date was a designated post under that Act, then—

(*a*) if the county council to whom he is transferred have on or before the appointed day adopted the Act of 1922, that Act shall apply as if the post held by the transferred officer under the county council had on the appointed day been designated by the council as an established post for the purposes of the Act of 1922;

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[1] 59 & 60 Vict. c. 50. See "Davey's Poor Law Statutes," 1928 Edition, at pp. 347–355. As to partial repeal of this Act, see Note to s. 137.

[2] For the definition of "local authority" in s. 3, see *ante*, p. 191; for the definition of "actuary" in that section, see *post*, p. 199; for s. 11, see *post*, p. 199; and, for the remainder of the Act, see "Laws of England," Supplement, par. 730.

[3] 9 Edw. VII, c. 48.

[4] 8 & 9 Geo. V, c. 33.

[5] 15 & 16 Geo. V, c. 59. For "adaptation" of s. 2 (1) (*b*) (i), see Sched. X (19).

[6] 26 L.G.R. (Orders), 389–392.

(*b*) if the county council to whom he is transferred have not on or before the appointed day adopted the Act of 1922, but have on that date any superannuation scheme or other scheme for ensuring benefits to an officer on retirement, the council shall prepare and submit to the Minister for his approval a scheme substituting in the case of that officer such superannuation scheme or other scheme as aforesaid for the provisions of the Act of 1922, and adequately protecting his rights and interests, and upon the scheme being approved by the Minister with or without modifications the Act of 1922 shall cease to apply to that officer;

(*c*) if the county council to whom he is transferred have on the appointed day no superannuation scheme or other scheme for ensuring benefits to an officer on retirement, whether under the Act of 1922 or otherwise, the Act of 1922 shall continue to apply to him as if the county council had on the appointed day adopted that Act and designated his post as an established post for the purposes of that Act:

Provided that it shall be lawful for the Minister by order to dispense with the necessity for the establishment by the council of a superannuation fund under the Act of 1922, and to make such consequential modifications of the Act of 1922 as may be necessary.

(2) In any such case as aforesaid—

(*a*) the district council shall pay to the county council in respect of the officer such a transfer value as would have been payable if the transfer had been a transfer to which section 8 (1) of the Act of 1922 applies; and section 11 (2) of that Act (which provides that no return of contributions is to be made where a transfer value is paid) shall apply accordingly;

(*b*) the equal annual charge payable by the district council to the superannuation fund under section 18 (1) (*e*) of the Act of 1922 shall be reduced by such amount (if any) as may be certified by an actuary within the meaning of that Act to represent the relief to the fund attributable to the post held by any such officer as aforesaid ceasing to be a designated post under the district council.

Note.

SUPERANNUATION ACTS.—*For sects.* 8 *and* 18 *of the Act of* 1922, *see the Note to the preceding section. For the definition of "local authority" in sect.* 3 *of that Act, see the Note to sect.* 123. *Sect.* 3 *defines "actuary" as meaning "a fellow of the Institute of Actuaries."*[1] *Sect.* 11,[2] *which is referred to in subsect.* (2) (*a*) *of the present section, provides as follows :—"*(1) *In the event of an officer or servant voluntarily resigning his office or employment or being dismissed for incapacity (fraud or misconduct not being alleged) before he has, under the provisions of this Act, become entitled to a superannuation allowance, the local authority shall pay to him out of the superannuation fund a sum equal to the amount of the contributions made by such officer or servant under this Act.* (2) *Notwithstanding anything in this or the last preceding section, the local authority shall not make any return of contributions with or without interest in the case of an officer or servant who transfers to the service of another local authority, where on such transfer a transfer value is paid by the first-mentioned local authority."*

General.

SECT. 126. [*Determination of questions as to transferred officers, &c.*]

If any question arises—

(*a*) as to the transfer of any officer in consequence of the provisions of this Act;

(*b*) as to the council to whom application by an officer is to be made for compensation under this Act;

(*c*) as to the fund out of which compensation (if any) is to be paid, or the proportions in which any compensation awarded is payable by councils;

the Minister may, on the application of the officer or any council concerned, determine the question.[3]

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(1) 12 & 13 Geo. V, c. 59, s. 3.

(2) *Ibid.*, s. 11.

(3) As to difficulties in connection with "exceptional areas," and "bringing into operation" any provision of the Act, see s. 130.

PART VIII.

GENERAL.[1]

SECT. 127. [*Information to be given by poor law authorities and district councils to county councils.*]

(1) It shall be the duty of every poor law authority to furnish, and to instruct their officers to furnish, any information in their power which may reasonably be required by the council of any county or county borough for the purpose of enabling them to discharge the functions transferred to them under Part I of this Act.[2]

(2) It shall be the duty of every district council to furnish, and to instruct their officers to furnish, any information in their power which may reasonably be required by the council of any county for the purpose of enabling them to discharge their functions under Parts III and IV of this Act.[3]

SECT. 128. [*Expenses, lending and borrowing.*]

(1) Save as otherwise expressly provided by this Act or by any scheme made thereunder for the provision of hospital accommodation for the treatment of infectious disease, the expenses of the council of a county or county borough under this Act shall be defrayed—

(*a*) in the case of a county council, as expenses for general county purposes;

(*b*) in the case of a county borough council, in like manner as general expenses in the execution of the Public Health Acts, 1875 to 1926;

and the provisions of the Poor Law Act, 1927, limiting the time within which debts incurred by boards of guardians are to be paid shall not apply to county councils or county borough councils.

(2) The council of any county or county borough in Wales or Monmouthshire may, with the consent of the Minister, lend to the King Edward the Seventh Welsh National Memorial Association any money required by that association for the purposes of

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[1] For a summary of Part VIII, see Introduction, *ante*, pp. 22, 23. The "appointed day" for this Part is April 1, 1930, except that it may be April 1, 1935, see s. 20 (2), *ante*.

[2] Part I (ss. 1–20, *ante*, p. 35) relates to the poor law.

[3] Part III relates to roads (ss. 29–39) and town planning (ss. 40–45). Part IV relates to boundaries (ss. 46–50), and miscellaneous matters (ss. 51–66).

capital expenditure which that association has power to borrow, subject to any conditions which the Minister may impose.

(3) The council of a county or county borough may borrow for the purposes of this Act—

(*a*) in the case of the London County Council, under and in accordance with the London County Council (Finance Consolidation) Act, 1912,[1] as amended by any subsequent enactment, and in the case of any other county council, under and in accordance with section 69 of the Local Government Act, 1888,[2] as amended by this Act;

(*b*) in the case of the council of a county borough, as for the purposes of the Public Health Acts, 1875 to 1926.[3]

Note.

EXPENSES.—*As to the expenses of county councils, see sect.* 68 *of the Local Government Act,* 1888.[4] *As to the expense of urban authorities, see sects.* 207 *and* 210 *of the Public Health Act,* 1875,[5] *and as to the "borough fund," see sect.* 139 *of the Municipal Corporations Act,* 1882.[6]

SECT. 129. [*Provisions as to inquiries.*]

(1) The Minister of Health may direct any inquiries to be held by his inspectors which he may deem necessary for the purposes of this Act, and such inspectors shall for the purposes of any inquiry have all such powers as they have for the purposes of inquiries directed by him under the Poor Law Act, 1927.

(2) The Minister of Transport may hold inquiries for the purposes of this Act, including appeals to him thereunder, as if those purposes were purposes of the Ministry of Transport Act, 1919, and section 20 of that Act shall apply accordingly.

(3) The Secretary of State may hold inquiries for the purposes of the provisions of this Act relating to the review by county councils of electoral divisions as if those purposes were purposes of section 54 of the Local Government Act, 1888, and section 87(1) of that Act shall apply accordingly.

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(1) 2 & 3 Geo. V, c. cv. Set out in 10 L.G.R. (Statutes) 39.
(2) Set out in Appendix, *post*, p. 294.
(3) See P.H. Act, 1875, s. 234 in Appendix, *post*, p. 284.
(4) Set out in Appendix, *post*, p. 293.
(5) Set out in Appendix, *post*, p. 281.
(6) 45 & 46 Vict. c. 50, s. 139. See "Glen's P.H.," at pp. 1829–1833.

(4) Where the Secretary of State or either such Minister causes any such inquiry as aforesaid to be held, the costs incurred by him in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as he may determine for the services of any inspector or officer engaged in the inquiry) shall be paid by such council or person as the Secretary of State or Minister concerned may direct, and the Secretary of State or Minister concerned may certify the amount of the costs so incurred and any amount so certified and directed by him to be paid by any council or person shall be a debt due to the Crown from that council or person.

Note.

INQUIRIES BY MINISTER OF HEALTH.—*Sect.* 221 *of the Poor Law Act,* 1927,[1] *gives the Minister of Health power to appoint inspectors, and, by sect.* 222 *of the same Act,*[2] *such inspectors are " entitled to visit and inspect every workhouse or place wherein any poor person in receipt of relief is lodged, and to attend any meeting of a board of guardians and any parochial and other local meeting held for the relief of the poor, and to take part in the proceedings, but not to vote at the meeting." By sect.* 223 (2), (4) *and* (5) *of the same Act,*[3] "(2) *The Minister and any inspector appointed under this Act may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents in his possession or power which relate to any matter in question at the inquiry, and shall have power to take evidence on oath, and for that purpose to administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined : Provided that* (a) *no person shall be required, in obedience to such a summons, to go more than ten miles from his place of abode ; and* (b) *nothing in this section shall empower the Minister or any inspector to require the production of the title, or of any instrument relating to the title, of any land or any interest therein not being the property of any poor law union or parish.*" "(4) *Every person who refuses or wilfully neglects to attend in obedience to any summons of the Minister or of any inspector, or to give evidence, or who wilfully alters, suppresses, conceals, destroys*

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(1) 17 & 18 Geo. V, c. 14, s. 221. This and the sections next mentioned take the place of the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 21, repealed by the Act of 1927.

(2) *Ibid.*, s. 222.

(3) *Ibid.*, s. 223 (2) (4) (5). Subsect. (1) authorized the Minister to hold inquiries and require returns. Subsect. (3) relates to " special inquiries," and subsect. (6) allows "any person appearing at the inquiry to be represented by counsel or solicitor."

or refuses to produce any books or other documents which he may be required to produce for the purposes of this Act shall be guilty of a misdemeanour." "(5) *The Minister in any case where he thinks fit may order such expenses of a witness as he deems reasonable to be paid* (a) *where the witness attends in pursuance of a summons under this section and a poor law union or any parish appears to the Minister to be interested, by the board of guardians of that union or of the union in which the parish is comprised* [*and in the latter case may direct the expenses to be charged either to the common fund of the union or to the account of the parish*[1]]*; and* (b) *in any other case, as part of the expenses of the Minister in the execution of this Act: Provided that the Minister shall not order the expenses of a witness travelling more than ten miles from the union or parish so interested to be paid by the board of guardians.*"

The above must be read with the "general adaptations" in Sched. X of the present Act.

INQUIRIES BY MINISTER OF TRANSPORT.—*By sect.* 20 *of the Ministry of Transport Act,* 1919,[2] "(1) *The Minister may hold such inquiries as he considers necessary or desirable for the purposes of this Act, and the Minister, and, if authorized by the Minister, the person appointed to hold any such inquiry, may by order require any person, subject to the payment or tender of the reasonable expenses of his attendance, to attend as a witness and give evidence or to produce any documents in his possession or power which relate to any matter in question at the inquiry, and are such as would be subject to production in a court of law, and, if any person fails without reasonable excuse to comply with any of the provisions of any such order, he shall be liable, on summary conviction, to a fine not exceeding five pounds, and the person holding the inquiry shall have power to take evidence on oath and for that purpose to administer oaths.* (2) *Notices of inquiries may be given and published in accordance with such general or special directions as the Minister may give.* (3) *The powers of the Minister under this section shall be in addition to and not in derogation of any powers of holding inquiries transferred to him from any other Government Department under this Act.*"

INQUIRIES BY SECRETARY OF STATE.—*Sect.* 54 *of the Act of* 1888 *relates to alterations of boundaries,*[3] *and sect.* 87 (1) *applies*

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(1) Repealed by s. 137 and Sched. XII of the present Act.
(2) 9 & 10 Geo. V, c. 50, s. 20.
(3) Set out *ante*, p. 110.

sects. 293–296 *of the Public Health Act,* 1875.[1] *By sect.* 293, *as so applied, "the [Secretary of State] may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as [he sees] fit in relation to any matters concerning [the review of electoral divisions] in any place, or any matters with respect to which [his] sanction approval or consent is required by this Act." By sect.* 294, *"the [Secretary of State] may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to [him] under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein." By sect.* 295, *"all orders made by the [Secretary of State] in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as [he] may direct." By sect.* 296, *"Inspectors of the [Secretary of State] shall, for the purposes of any inquiry directed by [him] have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts." For the power of poor law inspectors, see sect.* 222 *of the Poor Law Act,* 1927, *quoted above in this Note.*

SECT. 130. [*Power to remove difficulties.*]

(1) If any difficulty arises in connection with the application of this Act to any exceptional area, or in bringing into operation any of the provisions of this Act, the Minister may make such order for removing the difficulty as he may judge to be necessary for that purpose, and any such order may modify the provisions of this Act so far as may appear to the Minister necessary for carrying the order into effect:

Provided that the Minister shall not exercise the powers conferred by this section after the thirty-first day of December, 1930.

(2) Every order made under this section shall come into operation upon the date specified therein in that behalf, but shall be laid before Parliament as soon as may be after it is made and shall cease to have effect upon the expiration of a period of three months from the date upon which it came into operation, unless at some time before the expiration of that period it

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[1] 38 & 39 Vict. c. 55, ss. 293–296; 51 & 52 Vict. c. 41, s. 87 (1). See Notes thereon in "Glen's Public Health," 1925 Edition, at pp. 734–736, 1951, 1952.

has been approved by a resolution passed by each House of Parliament:

Provided that, in reckoning any such period of three months as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(3) In this section the expression "exceptional area" includes any poor law area which is not wholly comprised within one county or county borough, any district which is not wholly comprised within one county, or which is administered by the council of an adjoining district in another county, any parish which is not wholly comprised within one county, county borough or district, or which is not within the same district for municipal and sanitary purposes, and any area which enjoys or is subject to any special privilege, exemption or liability in respect of rating or valuation.

Note.

DIFFICULTIES.—*As to questions relating to transferred officers and their compensation, see sect.* 126. *The present section relates to the removal of difficulties in bringing any provision of this Act into operation, and no doubt many unforeseen complications will arise which will render it useful. It will be noticed that even the Act itself may be amended by an order of the Minister of Health, but these orders may not be made after December* 31, 1930, *and only last for three months unless approved by both Houses of Parliament. They are not subject to the provisions relating to addresses to the Crown—see sect.* 131 (3).

SECT. 131. [*Provisions as to orders, schemes and regulations.*]

(1) Any order or scheme made under this Act may contain such incidental, consequential or supplemental provisions as may appear necessary or proper for the purposes of the order or scheme.

(2) Except as otherwise expressly provided by this Act, any order or scheme made under this Act may be altered or revoked by an order or scheme made in like manner and subject to the like provisions as the original order or scheme:

Provided that—

(*a*) any scheme in operation under Part VI of this Act during any fixed grant period may be altered or revoked by a subsequent scheme made at any time before the end of that period; and

(*b*) if, on the failure of a council to submit a scheme within the time allowed by this Act, a scheme has been made by the Minister, or a scheme has been made by the Registrar-General and approved by the Minister, the scheme so made may be altered or revoked by a scheme made in like manner as the original scheme or by a scheme submitted by the council in question and approved by the Minister.

(3) Where any order (other than an order made under the last foregoing section or under Part IV of this Act) or any regulations are by this Act required to be laid before Parliament, the order or regulations shall be laid on the Table of both Houses of Parliament, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat after any such order or regulation has been laid before it praying that the order or regulation may be annulled, the order or regulation shall be annulled and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order or regulation.[1]

SECT. 132. [*Transitory and temporary provisions and adaptation of enactments.*]

(1) The provisions set out in the Ninth Schedule to this Act (which relate to transitional and temporary matters) shall have effect for the purposes of this Act.

(2) The enactments mentioned in the Tenth Schedule to this Act shall have effect subject to the adaptations specified in that Schedule and the said adaptations shall, save as in that Schedule otherwise expressly provided, come into operation as from the appointed day.[2]

SECT. 133. [*Special temporary provisions for adjustment of reduced and unreduced rateable value.*]

Where a valuable list in force on the first day of October, 1929, is amended with respect to any hereditament on the ground that it was or was not on that date an agricultural, industrial, or freight transport hereditament, then, whether or not the amendment has under this Act retrospective effect for other purposes, the reduced and unreduced rateable value of the hereditament shall, if—

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(1) As to such "addresses," see "Laws of England," Vol. XXI, at pp. 802–804. As to "regulations" by Minister under part VI, see s. 108.

(2) The "appointed day" for the purposes of Part VIII is April 1, 1930 (s. 134), except in the case of superseded guardians, when it is April 1, 1935 (s. 20 (2)).

(*a*) in the county of London the provisional list by which the amendment was made was sent to the assessment committee before the first day of October, 1930, or sent to them in compliance with a requisition served on the rating authority before that date; or

(*b*) elsewhere, the proposal for the amendment was served on the rating authority or, as the case may be, notified to the occupier or owner of the hereditament before the first day of October, 1930;

be ascertained for the purposes of all the provisions of this Act, except section 112 thereof, as if the amendment had been made immediately before the first day of October, 1929.[1]

SECT. 134. [*Definitions.*]

In this Act unless the context otherwise requires—[2]

"Appointed day" means the first day of April, 1930, except that for the purposes of Part V of this Act it means the first day of October, 1929 :[3]

"Appropriate percentage" means as respects the first and second fixed grant periods seventy-five per cent., as respects the third fixed grant period fifty per cent., and as respects the fourth fixed grant period twenty-five per cent. :[4]

"Appropriate year" means as respects the first fixed grant period the standard year, and as respects any subsequent fixed grant period the last year of the preceding fixed grant period :[5]

"Certified" means—

in relation to roads or road grants, certified by the Minister of Transport :[6]

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(1) For definitions of "reduced rateable value" and "unreduced rateable value," see s. 134; as to the former, *post*, p. 210; as to the latter, *post*, p. 212. For the provisions as to the above hereditaments, see s. 67 (agricultural) and 68 (industrial and freight transport).

(2) For other definitions in Act, see Index under "Definitions."

(3) Part V deals with relief from rates. See further exceptions in ss. 20 (2) (*a*), 118 (2), 120 (proviso).

(4) This expression is used in ss. 88 (1) (*a*), 92 (1) (*a*), 98 (1) (*a*).

(5) This expression is used in s. 90 (2) (*a*) and Sched. IV, Part III (2) (3), Part IV. "Standard year" is defined below in the present section.

(6) See ss. 87 (1) (*a*), 104 (*c*), 109 (1) (*a*), 109 (2) (*a*), Sched. IV, Parts II (2)-(4), III (3).

in relation to the number of unemployed insured men or women, certified by the Minister of Labour :[1]

in relation to any other matter, certified by the Minister of Health or such district auditor or officer of the Ministry of Health as he may appoint for the purpose:[2]

"Classified road" means a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class I or Class II, or in any class declared by him to be not inferior to those classes for the purposes of this Act :[3]

"County" means an administrative county, but does not include a county borough :

"County bridge" includes any bridge which a county council are liable to repair, except a bridge which they are liable to repair only by reason of the fact that the bridge is repairable by the inhabitants at large and that the road carried by the bridge is, for the time being, a county road :[4]

"County of London" means the administrative County of London :

"District" means county district, that is to say, a non-county borough or other urban district or a rural district :

"Drainage rate" means any rate which is assessed under any commission of sewers or in respect of any drainage, wall, embankment or other work for the benefit of the land :[5]

"Enactment" includes any public general, local or private Act and any rule, regulation, byelaw, order, or award made under any Act :

"Estimated population" and "estimated number of children under five years of age per thousand of the estimated population" mean in relation to any year, the population or number as estimated by the Registrar-General for the calendar year in which the year in question begins :[6]

"Functions" includes powers and duties :

"Gross annual value for income tax purposes" means the

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(1) See s. 109 (*b*), Sched. IV, Part III (2).

(2) See ss. 76, 86 (3) (*c*) (ii), 108 (3), 109 (2) (*b*), 114 (1) (*b*) (*d*), Sched. IV, Parts I, II.

(3) See s. 31 and Note. (4) See s. 32 and Note. (5) See s. 78 and Note.

(6) As to the first expression, see ss. 90 (2) (*a*), 91 (1). 94 (1) (*c*)(ii), Sched. IV, Part III. As to the second expression, see Sched. IV, Part III (1) (i). As to regulations in respect of "estimates," see s. 108 (1) (*c*).

annual value for the time being in force for the purposes of income tax under Schedule A of the Income Tax Act, 1918, as amended by any subsequent enactment :[1]

"Local Act" includes a Provisional Order confirmed by Act of Parliament :

"Losses on account of grants" means such losses calculated in accordance with the rules set out in Part II of the Fourth Schedule to this Act :[2]

"Losses on account of rates" means such losses calculated in accordance with the rules set out in Part I of the Fourth Schedule to this Act :[3]

"Minister" means the Minister of Health :

"Net annual value for income tax purposes" means the gross annual value for income tax purposes as reduced for the purpose of collection in accordance with the provisions of Rule 7 of No. V. of Schedule A of the Income Tax Act, 1918, as amended by any subsequent enactments :[4]

"Officer" includes servant :

"Parish rate" means a rate or an additional item of a rate levied to defray the expenses of a parish council or parish meeting other than expenses defrayed out of a special rate, and also includes any additional item of the general rate which by virtue of section 3 of the Rating and Valuation Act, 1925, is to be levied in lieu of a special rate :[5]

"Poor law authority" means a board of guardians, the board of management of a school district, an asylum board, and a joint committee constituted under section 3 of the Poor Law Act, 1927, or the corresponding provision of any Act repealed by that Act :[6]

"Poor law area" means, in relation to a board of guardians, the poor law union, in relation to the board of management of a school district, the school district, in relation to an asylum board, the asylum district, and in relation

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(1) This expression is used in ss. 78, 80 (*b*).

(2) See ss. 86 (3) (*b*), 88 (1) (*a*), 90 (3), 96 (2), 98 (1) (*a*) (London), Sched. IV, Part II.

(3) See ss. 86 (3) (*a*), 88 (1) (*a*), 90 (3), 96 (2), 98 (1) (*a*) (London), Sched. IV, Part I.

(4) This expression is used in s. 79.

(5) See s. 92 and Note, and Sched. IV, Part I (6).

(6) See Part I and ss. 113, 114, 119, 127.

to a joint committee, the combination of poor law unions for which the joint committee acts :[1]

"Prescribed" means, save as otherwise expressly provided in Part II of this Act, prescribed by regulations made by the Minister under this Act :[2]

"Property" and "liabilities" have the same meanings as in the Local Government Act, 1888 :[3]

" Public health services " includes services relating to maternity and child welfare, lunacy and mental deficiency, and the welfare of the blind :[4]

" Rate " has the same meaning as in the Rating and Valuation Act, 1925 :[5]

" Rating area " has the same meaning as in the Rating and Valuation Act, 1925 :[6]

" Reduced rateable value " means, subject to the provisions of the last foregoing section, in relation to any hereditament, the rateable value thereof according to the valuation lists in force on the first day of October, 1929, and in relation to any area the aggregate of such rateable values of all the hereditaments in the area :[7]

" Registration Acts " means the Births and Deaths Registration Acts, 1836 to 1926, and the Marriage Acts, 1811 to 1898 :[8]

" Registration officer " means, for the purposes of Part II and Part VII of this Act, any superintendent registrar and registrar of births and deaths :[9]

" Road " means a highway repairable by the inhabitants at large, and, save as in this Act otherwise expressly provided, includes any bridge so repairable carrying the road, and " improvement " in relation to a road

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(1) See Part I and ss. 114 (3), 130 (3).

(2) As to regulations for prescribing things to be prescribed, see s. 108 (1) (*d*).

(3) See ss. 113–118, and Note to present section with extract from Local Government Act, 1888, s. 100.

(4) This expression is used in ss. 104 (*a*), 106, 135.

(5) See Note to present section.

(6) See Note to present section, and s. 112, and Sched. IV, Part I.

(7) This expression is used in ss. 76, 107, 109 (1) (*c*), 113 (2) (*c*) (ii), 114 (1) (*d*), 133, and Sched. IV, Part I (1) (5).

(8) See s. 28 and Note.

(9) See ss. 22, 23 24, 122 123.

includes the fixing of a building line or improvement line under any enactment:[1]

"Road officer" means an officer employed as the road surveyor of a highway authority or employed under the control of such a surveyor in the surveying, making, maintenance or repair of roads:[2]

"Separately rated area" means any parish, part of a parish or place which is either a contributory place or an area otherwise subject to separate or differential rating (other than differential rating which is not of a permanent character), or as respects any county borough or any district in which there is no such parish or part of a parish or place, means the county borough or the district, as the case may be:[3]

"Sinking fund" includes any fund for the redemption of debt:[4]

"Special rate" means a special rate as defined in section 3 of the Rating and Valuation Act, 1925:[5]

"Spending authority" means the council of a county, county borough or district, the common council of the City of London, the council of a metropolitan borough, or a board of guardians:[6]

"Standard year" means the year beginning on the first day of April, 1928, and ending on the thirty-first day of March, 1929:[7]

"Transferred officer" means an officer who by virtue of this Act is in respect of any office transferred from one authority to another:[8]

"Transferred services" means the services in respect of which functions are transferred to councils by Parts I and III of this Act:[9]

'Unemployed insured men" and "unemployed insured

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(1) See Part III and ss. 117 (1) (*a*), 118. For definition of "classified road," see above in the present section. County bridges are "expressly" excluded in s. 32 (6) (*a*), but not in s. 38 (2).

(2) See ss. 120, 125.

(3) See ss. 94 (1) (*a*) (3), 96 (1), 97 (1) (*a*), 100 (1) (*a*) (London), 111, and Sched. IV, Part I (3)–(7), and the expression is further defined in Sched. IV, Part I (5) (*b*).

(4) This expression is used in ss. 113 (3), 117 (1) (*b*) (2).

(5) See s. 92 and Note, and Sched. IV, Part I (5).

(6) This expression is used in s. 108 (1) (*a*) and is further defined in Sched. IV, Part II (5) (*a*).

(7) This expression is used in ss. 87 (1) (*a*), 90 (1), 92 (1), 108 (3), 111, and Sched. IV, Parts I, II.

(8) See ss. 121, 124–126.

(9) See Sched. IV, Part I (2).

women " mean, respectively, men and women of or over the age of eighteen years being insured contributors under the Unemployment Insurance Acts, 1920 to 1928, who are for the time being recorded as being unemployed for the purpose of the returns of unemployment made by the Minister of Labour : [1]

" Unreduced rateable value " means, subject to the provisions of the last foregoing section, in relation to any hereditament what would have been the rateable value thereof on the first day of October, 1929, if that rateable value had been calculated in accordance with the enactments which were in force immediately before the commencement of this Act, but on the assumption that the net annual value of the hereditament was the net annual value thereof as on the said first day of October ; and in relation to any area the aggregate of such rateable values of all the hereditaments in the area : [2]

" Water rate " means any rate or other charge payable by consumers for the supply of water : [3]

" Weighted population " means in relation to any county or county borough, the weighted population calculated in accordance with the rules set out in Part III of the Fourth Schedule to this Act. [4]

Note.

DEFINITIONS.—*For other definitions given in the present Act and elsewhere, see Index under "Definitions." For places in the Act where words defined in the present section occur, see the footnotes to the definitions themselves.*

As to the definition of "property" and "liabilities," sect. 100 *of the Local Government Act,* 1888,[5] *contains the following definitions :—"The expression 'property' includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents ; and when used in relation to any quarter sessions, clerk of the peace, justices, board,*

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(1) These expressions are used in Sched. IV, Part III (2).
(2) This expression is used in ss. 76, 107, 133, and Sched. IV, Part I (1) (3) (5).
(3) See s. 77 and Note.
(4) This expression is used in ss. 88 (1) (*b*), 90 (3) (*b*), 98 (1) (*b*) (London), and Sched. IV Part III.
(5) 51 & 52 Vict. c. 41, s. 100.

sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression 'property' shall further include, in the case of the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions." "The expression 'liabilities' includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose." "The expression 'powers, duties, and liabilities' includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act." "The expression 'powers' includes rights, jurisdiction, capacities, privileges, and immunities." "The expression 'duties' includes responsibilities and obligations."

As to the definition of "rate," sect. 68 (1) *of the Rating and Valuation Act,* 1925,[1] *defines "rate" as meaning "a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined, but does not include* (a) *any rate which is assessed under any commission of sewers, or in respect of any drainage, wall, embankment, or other work for the benefit of the land;* or (b) *any rate of the description commonly known as a church rate, a tithe rate, or a rector's rate, or any other rate of a similar character;* or (c) *any rate which is leviable by the conservators of a common; or* (d) *any rate payable by consumers for a supply of water; or* (e) *any rate of the description commonly known as a garden rate or square rate, if levied by any persons other than a rating authority."*[2]

As to the definition of "rating area," the same enactment defines this expression as meaning "the area of a rating authority," and, by sect. 1 (1) *of the same Act,*[3] *"the council of every county borough and the council of every urban and rural district shall be the rating*

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(1) 15 & 16 Geo. V, c. 90, s. 68 (1).

(2) As to this definition, see Davey's R. & V. Act," 1925, 1926 Edition at p. 115; Konstam's, same, 1927 Edition at pp. 202, 203.

(3) 15 & 16 Geo. V, c. 90, s. 1 (1). See Davey at pp. 1 2; Konstam at pp. 19–22.

authority for the borough or for the county district, and from and after the appointed day no authority or person other than the council shall have power to make or levy any rate within the borough or district." The "appointed day" for the purposes of that Act was the 1st *April,* 1927, *see sect.* 68 (1).

SECT. 135. [*Declaration of intention as to future increases of local expenditure.*]

It is hereby declared that it is the intention of this Act that, in the event of material additional expenditure being imposed on any class of local authorities by reason of the institution of a new public health or other service after the commencement of this Act, provision should be made for increased contributions out of moneys provided by Parliament.[1]

SECT. 136. [*Transmission of benefit of rate-relief in respect of freight transport hereditaments.*]

(1) Whereas it is intended that occupiers of freight transport hereditaments, lands and heritages should allow rebates from, or make reductions in, the charges made by them in connection with the user of such hereditaments, lands and heritages for transport purposes, corresponding to the relief from rates due to the operation of Part V of this Act and of any corresponding enactment extending to Scotland :

Now, therefore—

(*a*) the provisions set out in the Eleventh Schedule to this Act shall have effect for the purpose of securing that such rebates as aforesaid are allowed in respect of certain selected traffics by the companies to which that schedule applies ; and

(*b*) the power of the Minister of Transport under any enactment, whether passed before or after the commencement of this Act, to revise the rates of the charges made by any person in connection with any canal or dock undertaking shall be deemed to include power to make provision for the allowance of rebates from, or the making of reductions in, such charges corresponding as nearly as may be to the relief from rates due to the operation of Part V of this Act and of any such corresponding enactment as aforesaid in respect of any freight transport hereditaments, lands and heritages occupied and used for canal transport purposes or dock purposes as part of that undertaking.

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(1) For definition of "public health services," see s. 134. As to contributions towards such services, see ss. 101, 102, 106.

(2) In this section the expressions "freight transport hereditaments, lands and heritages," "transport purposes," "canal undertaking," "dock undertaking," "canal transport purposes" and "dock purposes" have the same meanings as in the Rating and Valuation (Apportionment) Act, 1928.[1]

(3) This section and the said Eleventh Schedule shall extend to Great Britain.

SECT. 137. [*Repeals.*]

The enactments mentioned in the Twelfth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, the repeals effected by each of the several Parts of that Schedule being consequential on the provisions of the corresponding Part of this Act:

Provided that the repeal of the enactments mentioned in Parts I, III, V, VI, and VII of that Schedule shall not take effect until the date fixed as the appointed day for the corresponding Part of this Act.

Note.

ADAPTATIONS.—*As to "adaptations" of enactments, see sect.* 132 *and Sched. X.*

REPEALS.—*Sched. XII contains seven Parts, each Part containing the repeals consequent on the corresponding Part of the Act. As many Acts appear in several of the Parts, finding out what has happened to any particular Act means searching through each Part of the Schedule. In this Note will be found a complete list of the repeals, arranged under the Acts repealed in a non-tabular form and in chronological order, the Part of the Schedule in which the repeal occurs being in square brackets after the section repealed. If no section is mentioned, the whole Act is repealed, either by the present Act or "so far as unrepealed" already.*

1834—4 *&* 5 *Wm. IV, c.* 76 (*Poor Law Am.*), *s.* 40 [*VII*].

1835—5 *&* 6 *Wm. IV, c.* 69 (*Union and Parish Property*) [*VII*].

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(1) See Note to s. 68.

1836—6 *& 7 Wm. IV, c.* 86 (*Births and Deaths Registration*), *s.* 7, *from "the clerk to the guardians" to "in that capacity"* [*I*]; *s.* 8 *from "in every case in which the clerk" to "in such union parish or place and", and from "except as hereinbefore" to end of section* [*I*]; *in s.* 9, *the words "of the union, or parish, or place having a board of guardians as aforesaid"* [*I*]; *and s.* 29 *from "and in the case" to end of section* [*I*].

1837—7 *Wm. IV &* 1 *Vict. c.* 22 (*Births and Deaths Registration*), *s.* 10 *from "any two or more unions" to "last aforesaid or", and the words "of the union, parish or place for which such board is established"* [*I*]; *in s.* 11, *the words "any union, parish, or place or", the words "clerk to the guardians or other", and the words "of the whole union, parish, or place"* [*I*]; *s.* 14 *from "the clerk to any such board" to "superintendent registrar and", and the words "in any union, parish or place* [*I*]; *and ss.* 17 *and* 19 [*I*].

1841—4 *&* 5 *Vict. c.* 38 (*School Sites*), *s.* 6, *second proviso from "a majority" to "and without the consent of" and from "and of the guardians" to "convey the same"* [*VII*].

1842—5 *&* 6 *Vict. c.* 18 (*Parish Property and Parish Debts*) [*VII*].

1844—7 *&* 8 *Vict. c.* 101 (*Poor Law Am.*), ss. 14–16 [*VII*]; *s.* 56 [*I*]; *s.* 61 *from "and wherever any parish" to "any other persons"* [*I*].

1845—8 *&* 9 *Vict. c.* 117 (*Poor Removal*), *s.* 5 [*I*].

1846—9 *&* 10 *Vict. c.* 74 (*Baths and Washhouses*), *in s.* 24, *the words "the guardians of the poor of the parish (if any) and of" and the words "such guardians or in"* [*VII*].

1852—15 *&* 16 *Vict. c.* 85 (*Burial*), *in s.* 29, *the words" the guardians of the poor of the parish (if any) and of" and the words "such guardians or in"* [*VII*].

1854—17 *&* 18 *Vict. c.* 112 (*Literary and Scientific Institutions*), *s.* 6, *second proviso from "a majority" to "and without the consent of" and from "and of the guardians" to "convey the same"* [*VII*].

1856—19 *&* 20 *Vict.* c. 69 (*County and Borough Police*), *s.* 16 [*VI*].

1857—20 *Vict. c.* 19 (*Extra-Parochial Places*), *ss.* 5 *and* 8 [*I*].

1858—21 & 22 *Vict.* c. 25 (*Births and Deaths Registration*), *s.* 4 [*II*].

1861—24 & 25 *Vict.* c. 97 (*Malicious Damage*), *in ss.* 5, 11 *and* 39, *the words "poor law union"* [*I*].

1862—25 & 26 *Vict.* c. 103 (*Union Assessment Committee*), *ss.* 2, 4, 7, 9 *from "the whole number present" to "such committee consists"*, 10 *and* 12 [*I*].

1867—30 & 31 *Vict.* c. 6 (*Metropolitan Poor*), *s.* 24 [*I*].

1867—30 & 31 *Vict.* c. 84 (*Vaccination*), *in s.* 11, *the words "of his union or parish"* [*I*].

1867—30 & 31 *Vict.* c. 106 (*Poor Law Am.*), *ss.* 7, 8, *and* 11 [*VII*]; *and, in s.* 23, *the words "wholly or partly comprised within a union" and the words "where the union and the borough are not conterminous" and the words "of the said union"* [*I*].

1868—31 & 32 *Vict.* c. 122 (*Poor Law Am.*), *s.* 5 [*I*].

1869—32 & 33 *Vict.* c. 63 (*Metrop. Poor Am.*), *ss.* 8, 24, *and* 25 [*I*].

1869—32 & 33 *Vict.* c. 67 (*Valuation, Metrop.*), *s.* 5 [*I*]; *s.* 45 (3) *from "and to the qualification" to "Act,* 1867*"* [*I*], *and the words "to the qualification of a juror", and from "and in construing the Metropolitan Police Act,* 1829*", to "in force"* [*V*]; *in s.* 50, *the words "and upon such precept of the Poor Law Board" and from "and the Poor Law Board" to end of section, and s.* 59 [*I*].

1874—37 & 38 *Vict.* c. 54 (*Rating*), *"as respects agricultural land," ss.* 3 (1), 4, *and* 5 [*V*].

1874—37 & 38 *Vict.* c. 88 (*Births and Deaths Registration*), *s.* 6 [*II*]; *and s.* 22, *and s.* 33 *from beginning of section to "s.* 9 *of the Principal Act," and s.* 34 [*I*].

1875—38 & 39 *Vict.* c. 55 (*Public Health*), *in s.* 190, *the words "there may be awarded" to end of section* [*I*]; *s.* 229 *from "Where the rural authority" to "binding and conclusive on all parties concerned* [*IV*]; *s.* 234 (2) (3) [*V*]; *and, "as respects district councils," ss.* 299–302 [*IV*].

1876—39 & 40 *Vict.* c. 61 (*Divided Parishes and Poor Law Am.*), *s.* 21 *and s.* 42 *proviso* [*I*]; *and s.* 39 [*VII*].

1877—40 & 41 *Vict. c.* 66 (*Local Taxation Returns*), *in s.* 3, *the word "guardians"* [*I*].

1878—41 & 42 *Vict. c.* 77 (*Highways and Locomotives Am.*), *in s.* 16, *the words "in pursuance of this Act"; and s.* 20 [*III*].

1882—45 & 46 *Vict. c.* 21 (*Places of Worship Sites Am.*), *s.* 1 *proviso* (c) *from "a majority" to* "1835 *and of" and from "and of the guardians" to "the conveyance"* [*VII*].

1882—45 & 46 *Vict. c.* 50 (*Municipal Corporations*), *s.* 236 [*IV*].

1884—47 & 48 *Vict. c.* 70 (*Municipal Elections, Corrupt and Illegal Practices*), *s.* 36 (1) *proviso* (b) *from "and in relation to" to "in the union" and proviso* (e), *and Sched. I "so far as it applies to guardians"* [*I*].

1888—51 & 52 *Vict. c.* 41 (*Local Government*), *s.* 11 (2), (3), (4), (5), (6), *and* (8), *and* (9) *from "as to the refusal of the county council" to "in respect of any undertaking or road, or" and from "or as to any notice" to "in proper repair and condition"* [*III*]; *s.* 19 (1) *from "and if a medical officer" to end of subsection, s.* 20 (1) (2), *ss,* 21–27, *s.* 32 *"so far as it relates to the discontinued grants," s.* 34 (1) *from "in particular shall" to "applicable and" and from "including those" to "police of the county," s.* 34 (1) (d) (e), *s.* 41 (2) *from "and the common council" to end of subsection, and s.* 43 [*VI*]; *s.* 69 (2) [*V*]; *and s.* 94 [*VI*].

1889—52 & 53 *Vict. c.* 56 (*Poor Law*) [*VII*].

1889—52 & 53 *Vict. c.* 72 (*Infectious Disease, Notification*), *in s.* 11, *the words "or as guardian of a union"* [*I*].

1890—53 & 54 *Vict. c.* 5 (*Lunacy*), *in s.* 64, *the words "any union within" and "to such county or"; in s.* 65 (2) (a), *the words "some parish of"; s.* 68; *in s.* 80 (2), *the words "if the lunatic is chargeable to a county or borough"; s.* 290; *and s.* 303 *from "or in which" to "has been confined is situate"* [*I*].

1890—53 & 54 *Vict. c.* 8 (*Customs and Inland Revenue*), *s.* 7, *except as to Scotland* [*VI*].

1890—53 & 54 *Vict. c.* 45 (*Police*), *s.* 27 [*V*].

1890—53 & 54 *Vict. c.* 60 (*Local Taxation, Customs and Excise*), *except as to Scotland* [*VI*].

1891—54 & 55 *Vict. c.* 63 (*Highways and Bridges*), *s.* 4 *from "but no such order" to end of section* [*III*].

1891—54 & 55 *Vict. c.* 65 (*Lunacy*), *s.* 11 *from "or if the lunatic" to "licensed house," and s.* 25 [*I*].

1891—54 & 55 *Vict. c.* 76 (*Public Health, London*), *s.* 55 (4) *from "The Managers shall send" to end of subsection ; in s.* 57 (1), *the words "or as guardian of a poor law union"; s.* 80 (2) (3) *; s.* 81; *in s.* 86 (*proviso*), *the words "any asylum under the Metropolitan Poor Act,* 1867, *or"; s.* 87 *from "by the receiver" to "issued", and from "and the said board" to end of section ; and s.* 104 [*I*] *; s.* 108 (1) *from "and one-half" to end of subsection* [*VI*] *; and s.* 131 [*I*].

1892—55 & 56 *Vict. c.* 53 (*Public Libraries*), *s.* 13 (2) (b) *from "save by the" to "belongs or"* [*VII*].

1894—56 & 57 *Vict. c.* 73 (*Local Government*), *s.* 6 (1) (d) [*VII*] *; s.* 12 (1) *from "and except" to end of subsection* [*V*] *; s.* 16 (2) [*IV*] *; s.* 24 (2) *and s.* 24 (4) *from "and any person" to end of subsection* [*I*] *; in s.* 25 (1), *the words "and of any highway authority in the district" and from "and highway authority" to end of subsection, and ss.* 25 (4) *and* 29 (a) (c) *and* (d) [*III*) *; s.* 36 (6) *and* (9), *s.* 36 (10) *from "and any board of guardians" to end of subsection ; and s.* 36 (11) *from "or the alteration" to "two or more counties"* [*I*] *; and s.* 52 (1) [*VII*].

1894—57 & 58 *Vict. c.* 30 (*Finance*), *s.* 19, *except as to Scotland* [*VI*].

1894—57 & 58 *Vict.* c. 53 (*London, Equalisation of Rates*) [*VI*].

1894—57 & 58 *Vict.* c. 57 (*Diseases of Animals*), *"as respects Great Britain," in s.* 18 (1), *the words "(not exceeding one hundred and forty thousand pounds in any one year)" and the proviso ; s.* 18 (2) *; and Sched. II* (3) *to* (6) [*VI*].

1896—59 & 60 *Vict. c.* 16 (*Agricultural Rates*) [*VI*].

1896—59 & 60 *Vict. c.* 50 (*Poor Law Officers Superannuation*), *"the whole Act except so far as by virtue of this Act it continues to apply to any transferred officers, and except so far as it applies to officers to whom it applies by virtue of some other enactment, and except s.* 15 *thereof"* [*I*].

1897—60 & 61 *Vict.* c. 28 (*Poor Law Officers Superannuation Am.*) [*I*].

1898—61 & 62 *Vict.* c. 54 (*Public Works Loans*), *s.* 3 [*I*].

1899—62 & 63 *Vict.* c. 14 *London Government*), *s.* 11 (2) *from "other than a precept" to "elected by the guardians"* [*I*] ; *in s.* 11 (3) (f), *the words "section* 2 *of the London* (*Equalisation of Rates*) *Act,* 1894, *or" and the word "other"* [*VI*] ; *and s.* 13 [*I*].

1899—62 & 63 *Vict.* c. 17 (*Tithe, Rentcharge, Rates*) [*VI*].

1899—62 & 63 *Vict.* c. 44 (*Small Dwellings Acquisition*), *s.* 9 (6) [*V*].

1901—1 *Edw. VII*, c. 26 (*Births and Deaths Registration*) [*I*].

1905—5 *Edw. VII*, c. 18 (*Unemployed Workmen*) [*I*].

1907—7 *Edw. VII*, c. 13 (*Finance*), *except as to Scotland, s.* 17 *and Sched. II* [*VI*].

1908—8 *Edw. VII*, c. 16 (*Finance*), *s.* 6 (3) [*VI*].

1908—8 *Edw. VII*, c. 36 (*Small Holdings and Allotments*), *s.* 52 (1) (*proviso*) ; *and s.* 53 (4) (*b*) *from "but the money so borrowed" to end of* (*b*) [*V*].

1908—8 *Edw. VII*, c. 67 (*Children*), *s.* 108 (12) [*I*].

1910—10 *Edw. VII*, c. 8 (*Finance,* 1909–10), *s.* 47 (2) *and, except as to Scotland, s.* 88 (1) [*VI*].

1911—1 & 2 *Geo. V*, c. 2 (*Revenue*), *s.* 17, *except as to Scotland* [*VI*].

1912—2 & 3 *Geo. V*, c. 4 (*Metropolitan Police*) [*VI*].

1913—3 & 4 *Geo. V*, c. 28 (*Mental Deficiency*), *s.* 30 (i) [*VI*] ; *s.* 30 (ii) *from "nor shall local authorities" to end of proviso* [*I*] ; *s.* 33 (3) [*V*] ; *and ss.* 47 *and* 48 [*VI*].

1916—6 & 7 *Geo. V*, c. 12 (*Local Government, Emergency Provisions*), *s.* 7 [*I*] ; *and ss.* 9 *and* 13 (3) [*VI*].

1916—6 & 7 *Geo. V*, c. 31 (*Police, Factories, etc., Miscellaneous Provisions*), *s.* 4 [*VI*].

1916—6 & 7 *Geo. V*, c. 55 (*Local Government, Emergency Provisions, No.* 2) [*VI*].

1919—9 & 10 *Geo. V*, c. 46 (*Police*), *s.* 8 [*VI*].

1919—9 & 10 *Geo. V*, c. 93 (*Public Libraries*), *s.* 1 (3) (*proviso*) *from* "*money borrowed for the purposes of those Acts*" *to* "*Local Government Act*, 1888, *and that*" [*V*].

1920—10 & 11 *Geo. V*, *c.* 49 (*Blind Persons*), *s.* 2 (3) *from* "*and money*" *to end of subsection* [*V*].

1920—10 & 11 *Geo. V*, c. 72 (*Roads*), *except as to Scotland*, *s.* 2 (2) *and, in s.* 2 (3), *the words* "*balance of the*" *and the words* "*after deducting the sums to be paid to the local taxation accounts under this section*" [*VI*].

1921—11 & 12 *Geo. V*, *c.* 12 (*Public Health, Tuberculosis*), *s.* 1 (2) *from* "*This subsection shall not*" *to end of subsection* [*VI*].

1921—11 & 12 *Geo. V*, c. 23 (*Public Health, Officers*), *in ss.* 1 *and* 2, *the words* "*and charged to the Exchequer contribution account*"; *and s.* 6 [*VI*].

1921—11 & 12 *Geo. V*, *c.* 31 (*Police Pensions*), *s.* 22 (3), *except as to Scotland*; *s.* 22 (4) *from* "*and for the purpose*" *to* "*police fund*"; *and s.* 22 (5), *except as to Scotland* [*VI*].

1921—11 & 12 *Geo. V*, *c.* 32 (*Finance*), *s.* 62 [*VI*].

1921—11 & 12 *Geo.* V, c. 51 (*Education*), *s.* 70 (1) *from* "*shall apply all*" *to* "*unexpended and*", *and the word* "*further*" [*VI*]; *and s.* 132 (2) [*V*].

1921—11 & 12 *Geo. V*, c. 67 (*Local Authorities, Financial Provisions*), *ss.* 1, 2 (2), *and* 3 (4) [*I*].

1922—12 & 13 *Geo. V*, c. 14 (*Audit, Local Authorities*), *s.* 1 (2) [*I*].

1922—12 & 13 *Geo. V*, *c.* 59 (*Local Government and other Officers Superannuation*), *s.* 27 [*I*].

1923—13 & 14 *Geo. V*, c. 6 (*Local Authorities, Emergency Provisions*), *s.* 1 [*I*].

1923—13 & 14 *Geo. V, c.* 39 (*Agricultural Rates*), *except as to Scotland* [*VI*].

1924—14 & 15 *Geo.* V, *c.* 3 (*Diseases of Animals*) "*as respects Great Britain*" [*VI*].

1924—14 & 15 *Geo. V, c.* 38 (*National Health Insurance*), *s.* 107 (6), *except as to Scotland* [*VI*].

1925—15 & 16 *Geo. V, c.* 10 (*Agricultural Rates, Additional Grant, Continuance*), *except as to Scotland* [*VI*].

1925—15 & 16 *Geo. V, c.* 59 (*Teachers Superannuation*), *in s.* 2 (1) (a), *the words* "*the Poor Law Officers Superannuation Act,* 1896, *or*" [*VII*].

1925—15 & 16 *Geo. V, c.* 87 (*Tithe*), *s.* 7 (3) [*VI*].

1925—15 & 16 *Geo. V, c.* 90 (*Rating and Valuation*), *in s.* 3 (2), *the words* "*of any woodlands or*" *and the word* "*woodlands*" *where that word secondly occurs* [*V*]; *in* s. 9 (2), *the words* "*guardians in respect of any period beginning on or after the appointed day and by*"; *in s.* 9 (2) (d), *the words* "*and boards of guardians*" *and the words* "*and board of guardians*"; *in s.* 10 (2), *the words* "*or a board of guardians*" *and* "*or union*" [*I*]; *s.* 11 (1) (*proviso*) *from* "*the rent of which becomes payable or is collected at quarterly or any longer intervals or,*" [*V*]; *s.* 16 (2) *from* "*and with*" *to* "*county*"; *in s.* 16 (4), *the words* "*and the boards of guardians of the poor law unions*"; *in s.* 16 (7) *and* (8), *the words* "*and boards of guardians*"; *in s.* 17 (4), *the words* "*boards of guardians*"; *and s.* 20 (1) *from* "*of a manager*" *to* "*asylum district or*" [*I*]; *in s.* 20 (1), *the words* "*or under the enactments relating to the qualification*" *and the words* "*save as hereinafter mentioned of a juror*" *and the proviso*; *s.* 22 (2) *from* "*any deduction,*" *where those words first occur, to* "*as aforesaid*"; *and, in s.* 68 (1), *definitions of* "*agricultural land*" *and* "*woodlands*" [*V*]; *s.* 69 (2) (b) [*VI*]; *and in Sched. II, Part I* (8), *and in Part II* (1) *and* (2), *the words* "*and any woodlands*" [*V*].

1927—17 & 18 *Geo. V, c.* 14 (*Poor Law*), *ss.* 2 (2) (3), 3–5, 6 "*except so far as it is applied by any other enactment,*" 7, 9 *and* 10 *except as aforesaid*, 11–13, 14–16 *except as aforesaid*, 17–26, 27 *except as aforesaid*, 28 *and* 33; *in ss.* 35 *and* 36, *the words* "*in a parish*" *wherever they occur*; *in s.* 37, *the words* "*comprising the parish*" *wherever they occur ;* s. 83 ; *in* s. 102, *the words "any parish of" ; in* s. 108 (1), *the words "comprising his parish" ; in* s. 119 (1), *the words "parish of" and "comprised" ; in* s. 120, *the words "in a parish" ; in* s. 121, *the words "parish of" and "situated";* ss. 133 *to* 144 *and* 146 ; s. 148 *from "and may in the case" to end of section ;* ss. 149 *to* 153, 154 (1), *and* 156 ; s. 157 (5) *from "and in the case" to end of subsection ;* ss. 159, 160 (1) (2) *and* (4), 161, 163, 164, *and* 166 *to* 169 ; s. 170 (2) *from "and thenceforth" to end of subsection ; in* s. 171 (5), *the words "and the appointment of chaplains in a district school ;* ss. 171 (6), 175 *to* 182, *and* 185 ; *in* s. 187 (1), *the words "dispensary committee or where a dispensary committee has not been established the" ;* ss. 187 (3), 190 (1) (*proviso*), 190 (5), 191, *and* 193 *to* 206 ; s. 207 *from "or poor law union so long as" to end of section ;* s. 208 ; *in* s. 209, *the words "and a board of management of a school district or an asylum board" ;* s. 212 (1) (*d*) (2) *and* (3) ; *in* s. 214 (1), *the words "(other than an order for the formation of two or more poor law unions into a district)" ;* s. 220 ; s. 223 (5) (a) *from "and in the latter case" to "the account of the parish" ;* ss. 225 (2), *and* 226 (3) ; *in* s. 228, *the words "or other person employed by or under the authority of" ;* s. 236 (2) *from "and in the case of" to end of subsection ;* ss. 237 *to* 240 ; *and Scheds. I, II, III, IV, VII, VIII, and IX* [*I*]. [*See also numerous "adaptations" of this Act in Sched. X* (21)–(23), *post.*]

1927—17 *&* 18 *Geo. V, c.* 33 (*Mental Deficiency*), *s.* 7 (2) (ii) [*VI*].

1928—18 *&* 19 *Geo. V, c.* 9 (*Local Authorities, Emergency Provisions*), *s.* 2 [*I*].

SECT. 138. [*Short title and extent.*]

(1) This Act may be cited as the Local Government Act, 1929.

(2) This Act shall not (except the provisions thereof relating to the cattle pleuro-pneumonia account and the transmission of the benefit of rate relief in respect of freight transport hereditaments) extend to Scotland, and shall not extend to Northern Ireland.

(3) The Minister may by order direct that this Act shall, subject to such exceptions, adaptations and modifications, if any, as may be specified in the order, extend to the Isles of Scilly, but except as so applied this Act shall not extend to the said Isles.

The Minister may by any such order amend or repeal any provisions contained in the order relating to the Isles of Scilly, which was confirmed by the Local Government Board's Provisional Order Confirmation (No. 6) Act, 1890.[1]

(4) The Minister may by order direct that the provisions of Part III of this Act and such other provisions of this Act as relate to the property, liabilities, and officers of highway authorities shall, subject to such exceptions, adaptations, and modifications, if any, as may be specified in the order, extend to the administrative county of the Isle of Wight, and any such order may amend or repeal any provision contained in the Isle of Wight (Highways) Act, 1925;[2] but, except as so applied, the said provisions of this Act shall not extend to the said county.

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(1) 53 & 54 Vict. c. clxxvi.

(2) 15 & 16 Geo. V, c. iii.

SCHEDULES.

FIRST SCHEDULE.

Note.

DISTRICT COUNCIL FUNCTIONS OF COUNTY COUNCILS.—*The enactments specified in Part I of the present Schedule (as to "Functions exercisable in Rural Districts exclusively by County Councils") are enumerated in the Note to sect.* 30.[1] *The enactments specified in Part II (as to "Functions exercisable in Rural Districts by County Councils and by District Councils with the consent of the County Council") are enumerated in the Note to the same section.*[2] *The enactments specified in Part III (as to "Functions exercisable in Urban Districts as respects County Roads exclusively by County Councils") are enumerated in the Note to sect.* 31.[3] *The enactments specified in Part IV (as to "Functions exercisable in Urban Districts as respects County Roads by County Councils and by District Councils") are enumerated in the Note to the same section.*[4] *The enactments specified in Part V (as to "Functions exercisable in Urban Districts as respects County Roads by County Councils and by District Councils with the consent of the County Council") are enumerated in the Note to the same section.*[5]

All the specified enactments, with the modifications enacted by the present Act, if any, will be found in the Appendix at the pages indicated in the footnotes to the Notes to sects. 30 *and* 31.

SECOND SCHEDULE.

DISCONTINUED GRANTS.

(*Set out in Note to sect.* 85.)

THIRD SCHEDULE.

(*See sect.* 85 (4)).

PROVISIONS AS TO CERTAIN PAYMENTS WHICH BEFORE THE APPOINTED DAY WERE PAYABLE OUT OF LOCAL TAXATION ACCOUNTS OR OUT OF MONEY WHICH WOULD HAVE BEEN PAYABLE TO THOSE ACCOUNTS OR WHICH WERE PAYMENTS REQUIRED TO BE CHARGED TO EXCHEQUER CONTRIBUTION ACCOUNTS.

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(1) *Ante*, p. 80.

(2) *Ante*, p. 81.

(3) *Ante*, pp. 84, 85.

(4) *Ante*, p. 85.

(5) *Ante*, p. 85.

Payments to Cattle Pleuro-Pneumonia Account.

1.—(1) If in any financial year the money standing to the credit of the Cattle Pleuro-Pneumonia Account of Great Britain is insufficient to defray the costs and expenses of the Diseases of Animals Acts, 1874 to 1927, made payable out of that account, an amount equal to the deficiency shall be paid out of moneys provided by Parliament and carried to that account; and accordingly so much of section 18 of the Diseases of Animals Act, 1894,[1] as limits the amount payable into that account out of moneys provided by Parliament and the proviso to subsection (1) of that section shall cease to have effect.

(2) The Treasury may at any time within any financial year temporarily advance to the said account out of the Consolidated Fund or the growing produce thereof such sums as may from time to time be required for the purpose of making any payments properly falling to be made out of that account, but any sums so advanced shall be repaid out of moneys provided by Parliament before the end of the said year.

Payments in respect of Rates on certain Tithe Rentcharges and Payments in lieu of Tithe.

2. The Commissioners of Church Temporalities in Wales as respects any tithe rentcharge or any payment in lieu of tithe which is vested in them under the Welsh Church Acts, 1914 and 1919, and as respects which they were at the appointed day liable to pay one-half only of any rate or part of a rate, and the owner for the time being of any tithe rentcharge or payment in lieu of tithe as respects which the owner was at the appointed day liable to pay one-half only of any rate or part of a rate, shall continue to be liable to pay only one-half of the amount of any such rate or part of a rate which is assessed on them or him as owners or owner of any such tithe rentcharge or payment in lieu of tithe, and the remaining one-half shall on demand being made by the collector of the rate on the surveyor of taxes for the district, be paid by the Commissioners of Inland Revenue, and the sums so payable by the Commissioners shall be charged on and issued out of the Consolidated Fund or the growing produce thereof instead of being paid out of the sums which would have been payable to the Local Taxation Account.

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(1) 57 & 58 Vict. c. 57, s. 18.

Payments towards salaries of Medical Officers of Health, &c.

3. Every county council and county borough council shall continue to make the like payments as they were, before the appointed day, required to make under section 24 (2) (*c*) of the Local Government Act, 1888;[1] that is to say, they shall pay to every local authority for any area wholly or partly in the county or county borough by whom a medical officer of health or sanitary inspector is paid one-half of the salary of that officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875, or the Public Health (London) Act, 1891; but if the Minister certifies to the council that any such medical officer has failed to send to the Minister such report and returns as are for the time being required by the regulations respecting his duties made by order of the Minister under either such Act as aforesaid, or if the local authority have failed to comply with the provisions of the Public Health (Officers) Act, 1921,[2] the said sum equal to one-half of the salary shall be forfeited to the Crown and shall be paid to the Exchequer and not to the said local authority:

Provided that, where the area of any such local authority is not wholly comprised in one county or county borough, a certified proportionate part only of the sum otherwise payable shall be paid by the council of each such county or county borough.

Payments to Public Vaccinators.

4.—(1) Every county council and county borough council shall continue to make to public vaccinators the like payments as they were, before the appointed day, required to make to them under section 24 (2) (*a*) of the Local Government Act, 1888;[3] that is to say, they shall pay to every public vaccinator for a vaccination district wholly or partly in the county or county borough, such sums as the Minister may from time to time certify to be due from the council in substitution for the payments to public vaccinators under section 5 of the Vaccination Act, 1867:[4]

Provided that, where a vaccination district is not wholly comprised in one county or county borough, a certified proportionate part only of the sum otherwise payable shall be payable by the council of each such county or county borough to the public vaccinator.

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(1) 51 & 52 Vict. c. 41, s. 24 (2) (*c*). (2) 11 & 12 Geo. V, c. 3. See Glen's P.H. at p. 529.
(3) 51 & 52 Vict. c. 41, s. 24 (2) (*a*). (4) 30 & 31 Vict. c. 84, s. 5.

(2) The Minister shall fix the amount due on the like principles and may impose the like conditions for the payment thereof as before the passing of the Local Government Act, 1888.

(3) The Minister may, if he thinks fit, vary a certificate granted for the purposes of this paragraph, but unless so varied it shall be conclusive.

FOURTH SCHEDULE.

(*See sect.* 109 (1) (2).)

RULES FOR CALCULATIONS IN RESPECT OF GENERAL EXCHEQUER GRANTS.

PART I.

(*See sect.* 92 (1).)

Rules for determining Losses on Account of Rates.

1. There shall be estimated and certified as respects each rating area—

(*a*) the expenditure in respect of the standard year which would have fallen to be borne by rates levied in that area on the following assumptions :—

(i) that, elsewhere than in the County of London, section 9 of the Rating and Valuation Act, 1925, and not Schedule VII (10) of that Act,[1] had been in operation with respect to precepts issued by county councils ; and

(ii) that the expenditure on the transferred services had been expenditure by a county council or a county borough council, and, in the case of a county, had been expenditure for general county purposes ; and

(iii) that, in the case of the County of London, the London (Equalisation of Rates) Act, 1894, had not been in force in the standard year ;

(*b*) the unreduced rateable value of the area ;[2]

(*c*) the reduced rateable value of the area ;[2]

(*d*) the difference between the unreduced rateable value and the reduced rateable value of the area ; which difference increased by a percentage ascertained in the prescribed manner in respect of losses in the collection of rates is hereinafter referred to as " the loss of rateable value."

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[1] 15 & 16 Geo. V, c. 90, s. 9, Sched. VII (10).

[2] See s. 134.

2. In estimating and certifying the expenditure on the transferred services by a county or county borough council for the purposes of the foregoing rule in any case where the area of a highway authority or poor law authority is not wholly comprised in one county or county borough, the expenditure of the authority shall be apportioned between the several counties and county boroughs into which the area extends, and the amount apportioned to any such county or county borough shall be deemed to be expenditure by the council of that county or county borough on the transferred services.

3. The loss on account of rates of a rating area shall be a sum bearing the same proportion to expenditure which would have fallen to be borne by rates as aforesaid as the loss of rateable value of the area bears to the unreduced rateable value thereof, and where a rating area comprises any separately rated area, the loss on account of rates in respect of the expenditure in regard to which the area is separately rated shall be separately determined in accordance with the rules contained in this Part of this Schedule.

4. The loss on account of rates of a county shall be the aggregate of the losses on account of rates of the several separate rating areas within the county, and where a rating area is partly in one and partly in another county, the part in each county shall be treated as if it were a separate rating area.

5. For the purpose of determining the loss on account of a special rate, the foregoing rules shall have effect as if—

(*a*) the expression " rates " meant such special rate ;

(*b*) the expression " separately rated area " meant the area in which such special rate is levied ;

(*c*) the reduced and unreduced rateable value of any hereditament to which section 3 (2) of the Rating and Valuation Act, 1925,[1] applies, were one-fourth part thereof ;

and the loss on account of the special rates of a district shall be the aggregate of the losses on account of special rates of the areas in which special rates are levied within the district.

6. For the purpose of determining the loss on account of a parish rate, the foregoing rules shall have effect as if the expression

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(1) 15 & 16 Geo. V, c. 90, s. 3 (2). Set out *ante*, p. 180.

" rates " meant such parish rate, and the expression " separately rated area " meant the parish or the part of a parish in which such parish rate is levied ; and the loss on account of parish rates of a district shall be the aggregate of the losses on account of parish rates of the parishes or parts of parishes in which parish rates are levied within the district.

7. The loss on account of rates of the common council of the City of London and of a metropolitan borough council shall be determined in accordance with the foregoing rules, subject to the following modifications :—

(*a*) the expenditure to be estimated and certified shall be the expenditure of the council in respect of the standard year falling to be borne by rates ;

(*b*) the loss of the council on account of rates shall be the aggregate of the losses on account of rates levied in respect of the expenditure of the council in the several separately rated areas within the city or metropolitan borough.

PART II.

Rules for Determining Losses on Account of Grants.

1. There shall be estimated and certified the amounts paid or payable in respect of the standard year to spending authorities within each county and county borough out of the discontinued grants, after deducting therefrom a sum equal to such part of the amounts paid or payable in respect of the standard year out of the Local Taxation Account or out of the proceeds of duties on local taxation licences levied and retained by the council of the county or county borough as was in pursuance of any statutory requirement applicable for the purposes of higher education or police services within the county or county borough :

Provided that—

(*a*) for the purposes of this rule, no part of the annual or additional annual grant made under the Agricultural Rates Acts, 1896 and 1923, shall be deemed to have been so applicable as aforesaid ; and

(*b*) any financial adjustment between spending authorities in force with respect to the standard year, which affected the allocation of the amounts paid or payable to such authorities out of the discontinued grants, shall be taken into account in estimating the said amounts.

2. The amounts aforesaid shall be estimated and certified as if road grants had been made in respect of the standard year at the rates at which they were payable immediately before the appointed day.

3. In estimating and certifying the amounts aforesaid, in any case where the area for which a spending authority acts is not wholly comprised in one county or county borough, the amount paid or payable to the spending authority out of the discontinued grants shall be apportioned between the several counties and county boroughs into which the area extends, and the amount apportioned to any county or county borough shall be deemed to be an amount paid or payable to a spending authority within that county or county borough.

4. The loss on account of grants of a spending authority shall be the amounts so estimated and certified as respects that authority, and the loss on account of grants of a county or county borough shall be the aggregate of the losses on account of grants of the spending authorities within the county or county borough.

5. For the purpose of the rules contained in this Part of this Schedule—

(*a*) the expression spending authorities shall include voluntary associations and joint authorities (including the receiver for the metropolitan police district) to which grants were paid or payable in respect of the standard year; and

(*b*) any grants paid or payable in respect of the standard year to the King Edward the Seventh Welsh National Memorial Association for the purposes of sanatoria or other institutions for the treatment of tuberculosis shall be treated as if they had been included among the amounts paid or payable out of the discontinued grants; and

(*c*) the area for which a voluntary association acts shall be determined by the Minister.

6. As respects the County of London—

(*a*) the Minister may by order determine the extent to which grants to voluntary associations in respect of maternity and child welfare services carried on by them are to be apportioned as if they had been grants to the London County Council, on the one hand, and to the common council and the metropolitan borough councils on the other hand;

(*b*) the loss on account of grants of the common council or of a metropolitan borough council shall be the loss on account of grants of the council as a spending authority, together with the loss of such part, if any, of the grants to voluntary associations as may be apportioned to the council under the last foregoing paragraph and the appropriate proportion of the loss on account of grants of the receiver for the metropolitan police district.

PART III.

(*See sects.* 110 *and* 134 " *Weighted Population.*")

Rules for determining Weighted Population.

1. The estimated population of the county or county borough in the appropriate year shall be increased—

(i) if the estimated number of children under five years of age per thousand of the estimated population exceeds fifty, by the percentage represented by the proportion which that excess bears to fifty ;[1]

(ii) if, according to the valuation lists in force on the appropriate date, the rateable value per head of the estimated population of the county or county borough is less than ten pounds, by the percentage represented by the proportion which the deficiency bears to ten pounds.[1]

2. There shall be estimated and certified the average numbers during the three calendar years immediately preceding the beginning of each fixed grant period of unemployed insured men and of unemployed insured women resident in each county and county borough, and there shall be ascertained the percentage represented by the proportion which the number of unemployed insured men increased by ten per cent. of the number of unemployed insured women bears to the average estimated population of the county or county borough for those three years, and if as respects any county or county borough that percentage exceeds one-and-a-half, the estimated population of the county or county borough in the appropriate year as increased in accordance with Rule 1 contained in this Part of this Schedule shall be further increased by a percentage equal to the amount of such excess multiplied by the appropriate multiple.[2]

3. There shall be ascertained and certified the number of miles of road in every county other than the county of London, and

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(1) See s. 134 for definition of "estimated . . . ."

(2) See ss. 90 (4), 98 (1) (*b*), and, for definitions of "appropriate year," and "unemployed . . . ", s. 134.

the estimated population of every such county as increased in accordance with Rule 1 contained in this Part of this Schedule shall be further increased—

(*a*) in the case of a county in which the estimated population per mile of roads is in the appropriate year less than one hundred, by the percentage represented by the proportion which the difference between two hundred and the estimated population per mile of roads bears to two hundred; and

(*b*) in the case of a county in which the estimated population per mile of roads is in the appropriate year one hundred or more, by the percentage represented by the proportion which fifty bears to the estimated population per mile of roads.

4. The estimated population of the county or county borough as increased in accordance with the provisions of the foregoing rules contained in this Part of this Schedule shall be the weighted population of the county or county borough.

5. For the purposes of this Part of this Schedule :—

"The appropriate date" shall, as respects the first fixed grant period, be the first day of October, 1929, and as respects every other fixed grant period, the first, or in London the sixth, day of April in the last year of the preceding fixed grant period :

"The appropriate multiple" shall, as respects the first and second fixed grant periods, be ten, and as respects any subsequent fixed grant period be a number ascertained in the following manner :—

(i) the ratio which the total amount of the General Exchequer Contribution in the fixed grant period in question bears to the part thereof distributed in that fixed grant period under section 88 (1) (*b*) of this Act shall be ascertained :

(ii) the ratio which the total amount of the General Exchequer Contribution in the first fixed grant period bears to the part thereof distributed in that fixed grant period under the said paragraph shall be ascertained :

(iii) the required number shall be such number as bears to ten the same proportion as the ratio ascertained under paragraph (i) of this rule bears to the ratio ascertained under paragraph (ii) thereof.

PART IV.

(*See sects.* 91 (1), 110.)

Rules for calculating sums to be allocated to Districts on the basis of Population.

1. The number of pence produced by dividing one half of the total amount of the county apportionments (exclusive of any sums paid out of moneys provided by Parliament to make good a deficiency in any such apportionment) to counties other than London by the aggregate of the estimated populations of those counties in the appropriate year shall be ascertained to the nearest penny.

2. The amount to be allocated to an urban district shall be the number of pence ascertained under Rule 1 contained in this Part of this Schedule multiplied by the estimated population of the district in the appropriate year.

3. The amount to be allocated to a rural district shall be one-fifth of the number of pence ascertained under Rule 1 contained in this Part of this Schedule multiplied by the estimated population of the district in the appropriate year.

FIFTH SCHEDULE.

(*See sects.* 94 (1) (*a*), 96 (1), 97 (1) (*a*), 100 (1) (*a*), 109 (1).)

RULES FOR ASCERTAINING GAINS AND LOSSES OF AREAS.

1. There shall be estimated and certified as respects each separately rated area the rate in the pound required to raise an amount certified as being the amount of the expenditure for the standard year falling to be borne by rates (other than special and parish rates) in that area on the assumptions that the rateable values of all hereditaments were the unreduced rateable values thereof, and that the expenditure on the transferred services was incurred by the various spending authorities as existing before the transfer of those services.

2. There shall be estimated and certified the rate in the pound which would be required to raise an amount certified as being the amount of such part of the expenditure for the standard year as would have fallen to be borne by rates (other than special and parish rates) in that area on the following assumptions—

(*a*) that the rateable values of all hereditaments were the reduced rateable values thereof; and

(*b*) that the expenditure on the transferred services was expenditure by the county council or the county borough council and in the case of a county was expenditure for general county purposes; and

(*c*) that the standard year was a year falling within the first fixed grant period and that the provisions of Part VI of this Act, other than sections 94, 96, 97, and 100 had been in operation.

3. In estimating and certifying the expenditure on the transferred services by a county council or county borough council in any case where the area for which a highway authority or poor law authority acts is not wholly comprised in one county or county borough, the expenditure of the authority shall be apportioned between the several counties and county boroughs into which the area extends, and the amount so apportioned to any such county or county borough shall be deemed to be expenditure by the council of that county or county borough on the transferred services.

4. The difference resulting from subtracting the rate under Rule 2 contained in this Schedule from the rate under Rule 1 contained therein shall be ascertained.

5. If as respects any area the difference is a plus quantity, the estimated proceeds of a rate equivalent to the difference levied on the reduced rateable value of the area shall be deemed to be the gain of the area.

6. If the difference is a minus quantity, the estimated proceeds of a rate equivalent to the difference levied on the reduced rateable value of the area shall be deemed to be the loss of the area.

7. For the purposes of these Rules, it shall be assumed that elsewhere than in the County of London section 9 of the Rating and Valuation Act, 1925, and not Schedule VII (10) of that Act, was in operation with respect to precepts issued by county councils.

SIXTH SCHEDULE.

(*See sect.* 113 (2) (*d*).)

ADJUSTMENTS AND APPORTIONMENTS OF POOR LAW PROPERTY AND LIABILITIES.

Adjustment in respect of Institutional Property and Liabilities.

1. Except where the councils of the counties and county boroughs into which a poor law area extends agree that no adjustment in respect of institutional property and liabilities is necessary, such adjustment shall be made between the councils as they may agree or in default of agreement as the Minister may by order determine :

Provided that for the purposes of any agreement or order made under this paragraph the certificate of an officer of the Commissioners of Inland Revenue of the value of any institutional property shall be conclusive, and the costs of the valuation upon a scale to be prescribed by the Treasury shall be payable to the Commissioners by the councils concerned and shall be treated as an institutional liability attaching to the property valued.

Apportionment of or Adjustment in respect of Non-Institutional Property and Liabilities.

2.—(1) As soon as practicable after the appointed day the prescribed officer shall prepare in respect of each poor law area which was not wholly comprised within one county or county borough, and the district auditor for the audit district in which the poor law area was comprised shall certify to the councils of the counties or county boroughs into which the area extended, a statement showing the value as at the appointed day of the non-institutional property and liabilities of the poor law authority, other than any right of recovery from any person of payments made or expenses incurred by the poor law authority by way of poor relief.[1]

(2) The certificate of the district auditor shall be final and conclusive :

Provided that any such auditor may, if he thinks fit, give an interim or provisional certificate and may amend any final certificate given by him so far as appears to him necessary for the purpose of correcting any errors.

(3) The property and liabilities of the poor law authority included in the said statement shall be apportioned on the basis

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(1) As to such payments, see s. 16 of Act of 1929.

of their values as at the appointed day between the several counties and county boroughs concerned in proportion to the reduced rateable values of the parts of the poor law area comprised in the several counties or county boroughs, or an adjustment in respect thereof on the like basis shall be made.

General.

4.—(1) Any sum required to be paid from one council to another for the purpose of effecting an adjustment under this Schedule may be paid either by way of annual payments or by way of a single payment.

(2) Any capital money paid to a council by way of apportionment or adjustment shall be treated as capital, and applied, with the sanction of the Minister, either in the repayment of debt or for any other purpose for which capital money may be applied, and any other money so paid shall be credited to the county fund or general rate fund of the borough.

5. For the purpose of this Schedule—

(*a*) " the prescribed officer " in relation to any poor law authority means the person who was immediately before the appointed day clerk to the authority or such other officer as may be designated for the purpose by the councils of the counties or county boroughs into which the poor law area extended, or failing agreement between those councils by the Minister ; and

(*b*) references to a poor law area shall in relation to any time after the appointed day be construed as references to the area which immediately before the appointed day constituted the poor law area.

SEVENTH SCHEDULE.

PROVISIONS AS TO THE SALE, ETC. OF PARISH PROPERTY.

(*Set out in Note to sect.* 115.)

EIGHTH SCHEDULE.

PROVISIONS AS TO THE DETERMINATION AND PAYMENT OF COMPENSATION TO OFFICERS.

(*Set out in Note to sect.* 123.)

NINTH SCHEDULE.

(*See sect.* 132 (1).)

PART I.

TRANSITIONAL PROVISIONS.

Transfer of Property.

1. Where any property is transferred by or in pursuance of Part VII of this Act from one authority to another authority or body—

(*a*) the property shall, except as otherwise expressly provided, be held by the authority or body to whom it is transferred subject to all debts and liabilities affecting the property;

(*b*) the latter authority or body shall hold the property for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not been passed, so far as they are not modified by or in pursuance of Part VII of this Act;

(*c*) if and so far as the property consists of stock, the provisions of the Local Government (Stock Transfer) Act, 1895,[1] shall apply for the purposes of any such transfer in like manner as if the transfer had been made by virtue of the Local Government Act, 1894, with this modification, that for the reference to a certificate of the clerk of the county council there shall be substituted a reference to a certificate of the Minister.

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(1) 58 & 59 Vict. c. 32. See Glen's P.H. at pp. 2098, 2099.

Provisions as to existing Guardians and Rural District Councillors.

2.—(1) No election of guardians shall be held after the commencement of this Act and the term of office of guardians representing any area in a county borough or urban district or in the county of London and holding office at the commencement of this Act shall continue to the appointed day, and any casual vacancy occurring amongst those guardians may be filled by election by the board of guardians.

(2) Nothing in this Act shall affect the qualification of any person elected or nominated for election before the appointed day as a rural district councillor during the term of office for which he was so elected or nominated.

Settlement and Irremovability.

3.—(1) Every person who at the appointed day has, or is in the course of acquiring, a settlement in any parish by reason of residence, birth or other qualification therein, shall be deemed to have or to be in the course of acquiring a settlement in the county or county borough in which the parish is comprised.

(2) Every person who at the appointed day has, or is in the course of acquiring, a status of irremovability from a poor law union, shall be deemed to have or to be in the course of acquiring a status of irremovability from the county or county borough in which the poor law union is comprised, or if the poor law union is not wholly comprised within one county or county borough, from the county or county borough in which is comprised the part of the poor law union by reason of residence wherein the status of irremovability was, or was in the course of being, acquired.

(3) For the purposes of sub-paragraph (2) of this paragraph consecutive periods of residence in two or more places within any poor law union which is not wholly comprised within one county or county borough shall be aggregated and reckoned as continuous residence in that part of the poor law union in which the person so resided immediately before the appointed day.

Outstanding Precepts and Audit of Accounts.

4.—(1) All precepts for contributions issued before the appointed day and not discharged before that day shall be payable to the appropriate council by the rating authority.

(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges,

and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not been passed, but as soon as practicable after the appointed day, and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day:

Provided that any sum certified to be due from any person by the district auditor at the audit shall be paid by that person to the appropriate council.

Provisions when Liability for Loan is Transferred to the Council who made the Loan.

5. Where the liabilities of an authority transferred to a council under Part VII of this Act comprise a liability on account of money advanced by that council to the authority, the Minister may make such orders as he thinks fit for providing for the repayment of any debts incurred by the council for the purposes of those advances within a period fixed by the order, and, where the money advanced to the authority was money standing to the credit of any sinking fund or capital money applied under the Local Government Acts, 1888 and 1894, or either of them, for the repayment to the proper fund or account of the amount so advanced.

Provisions as to Loans of Rural District Councils for Special Expenses.

6. As from the appointed day, any sum borrowed or reborrowed before that date by the council of a rural district on the credit of any rate out of which special expenses of the council are payable shall be deemed to have been borrowed also upon the credit of any moneys from time to time received by the council under this Act and applicable for the purposes for which the loan was contracted, and any mortgage for the purpose of securing the repayment of any sum so borrowed with interest thereon shall have effect accordingly.

Saving for Pending Contracts, Legal Proceedings, etc.

7.—(1) All proceedings, legal and other, begun before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not been passed, and any such proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act, and of any order or scheme made thereunder.

(2) Any cause of action by or against any authority which exists at the appointed day in relation to any functions, liabilities, debts or property transferred by this Act to a council shall not be prejudicially affected by the passing of this Act, but may be prosecuted and enforced by or against the council as successors of the authority from whom the transfer was made.

(3) All contracts, deeds, bonds, agreements, notices, and other instruments affecting any functions, liabilities, debts, or property transferred by this Act and subsisting at the appointed day, shall be of as full force and effect against or in favour of the council to whom the transfer was made, and may be enforced as fully and effectually as if, instead of the authority named in the instrument, the council to whom the transfer is made had been a party thereto.

Provisions as to Metropolitan Common Poor Fund.

8.—(1) Section 1 of the Local Authorities (Emergency Provisions) Act, 1923,[1] which provides for the temporary extension of charges on the Metropolitan Common Poor Fund,[2] shall as amended by any subsequent enactment have effect as if for references therein to the first day of April, 1932, there were substituted references to the commencement of the financial year ending immediately before the appointed day.

(2) No expenditure incurred by any poor law authority in London in respect of the financial year ending immediately before the appointed day shall be repayable to the authority out of the Metropolitan Common Poor Fund, and as soon as practicable after the appointed day the fund shall be wound up and the balance standing to the credit of the fund shall be paid to the London County Council.

PART II.

TEMPORARY PROVISIONS.

Amendment of Special Lists made under 18 *and* 19 *Geo. V, c.* 44, *and Consequential Amendment of Valuation Lists.*

1.—(1) When a draft special list for a rating area has been deposited in accordance with the First Schedule to the Rating and Valuation (Apportionment) Act, 1928,[1] then, without prejudice to the provisions of that Schedule as to the making of objections and applications, an objection to the list as deposited with, or as approved by, the assessment committee, may be lodged with that committee at any time before the first day of October, 1929, by the persons and on the grounds hereinafter mentioned, and the provisions of the said Schedule relating to objections and to appeals shall apply thereto.

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(1) 13 & 14 Geo. V, c. 6, s. 1.

(2) Under Local Authorities (Financial Provisions) Act, 1921 (11 & 12 Geo. V, c. 67), s. 1.

(2) Such an objection as aforesaid may be lodged—

(*a*) in the case of a hereditament in respect of which no claim for its inclusion in the special list has been made under the said Schedule, by the occupier or owner thereof on the ground that the hereditament ought to be inserted in the list; and

(*b*) in the case of a hereditament included in the special list, by the occupier or owner thereof on the ground that any value appearing in the list in respect of the hereditament is incorrect or unfair, and by the rating authority or, where he considers the value excessive, by the revenue officer on the same ground, notwithstanding that the value objected to may have been inserted in the list by or with the approval of that authority or officer.

A notice of objection on the ground that a hereditament ought to be inserted in the special list shall contain such particulars as would have been required by or under the said Schedule in the case of a claim for the inclusion of the hereditament in the draft special list before that list was deposited.

(3) Any amendment of a special list made in consequence of any such objection lodged as aforesaid which is not determined until after the thirtieth day of September, 1929, shall be deemed to have been made upon that date.

(4) The gross value, if any, and the net annual value appearing in respect of any hereditament in a special list for any rating area outside the County of London approved in accordance with the First Schedule to the Rating and Valuation (Apportionment) Act, 1928,[2] shall be taken to be the gross value and the net annual value of that hereditament for the purpose of the current valuation

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(1) 18 & 19 Geo. V, c. 44, Sched. I.

(2) *Ibid.*

list, and, accordingly, the assessment committee, upon approving the special list and thereafter upon making any amendment thereof, shall make or cause to be made in the valuation list the necessary amendments (including any necessary amendments of rateable values), and those amendments shall have effect as if made in consequence of a proposal for the amendment of the valuation list served upon the rating authority on or before the thirtieth day of September, 1929.

Amendment of Valuation Lists in London.

2.—(1) In respect of the period of twelve months beginning on the first day of October, 1929, the following provisions shall have effect in relation to hereditaments in the County of London,—

(*a*) as respects any hereditament which has become or ceased to be an agricultural, industrial, or freight transport hereditament at any time before the first day of October, 1929, section 70 (1) of this Act shall have effect as if the words "in the course of any year" were omitted therefrom; and

(*b*) a provisional list made by virtue of the said subsection and sent to the assessment committee before the sixth day of April, 1930, or sent to them in compliance with a requisition served on the rating authority before that date, shall have effect as from the date on which the hereditament became or ceased to be an agricultural, industrial, or freight transport hereditament, as the case may be, or as from the first day of October, 1929, whichever is the later.

(2) If any person, being a person entitled to object to a provisional list, is aggrieved by any decision of the assessment committee with respect to such a provisional list as aforesaid sent to them before the first day of October, 1930, or sent to them in compliance with a requisition served on the rating authority before that date, or if any person by whom a requisition for such a list has been so served is aggrieved by the failure of the rating authority to comply therewith within six weeks after the service thereof, he may appeal to quarter sessions, and notwithstanding anything in section 42 of the Valuation (Metropolis) Act, 1869,[1] notice of any such appeal shall be given within twenty-eight days after the decision or failure, as the case may be, and any such appeal may be heard by quarter sessions at any date but, save as aforesaid, such appeals shall be made in like manner and the

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(1) 32 & 33 Vict. c. 67, s. 42.

decision thereon shall have the like effect as in the case of appeals against decisions of the assessment committee on objections to new valuation lists.

(3) In the case of any hereditament included in a provisional list as respects which a right of appeal to quarter sessions is given by this paragraph so much of section 47 (10) of the Valuation (Metropolis) Act, 1869,[1] as provides for repayments and allowances if the value of the hereditament included in a provisional list is reduced when the next revision of the valuation list takes place shall not apply.

Totals of Values in London.

3. For the purpose of totals of values in the county of London, any amendment made in a valuation list in force on the first day of October, 1929, on the ground that a hereditament was or was not on that date an agricultural, industrial, or freight transport hereditament shall, if made by means of a special list prepared in accordance with the Rating and Valuation (Apportionment) Act, 1928, or by means of a provisional list sent to the assessment committee before the first day of October, 1930, or sent to them in compliance with a requisition served on the rating authority before that date, have effect notwithstanding anything in section 47 (11) of the Valuation (Metropolis) Act, 1869,[2] as if it had been made by a supplemental list coming into force on the sixth day of April, 1930.

Provisions as to Revenue Officer.

4. Where any proposal for the amendment of a valuation list or the making of any provisional list involves a question whether a hereditament ought to be shown in any such list as having been on the first day of October, 1929, an agricultural, industrial, or freight transport hereditament, the revenue officer shall, save that he shall not be entitled to contend that the gross value or net annual value of a hereditament as a whole ought to be increased, have the like rights with respect to receiving copies of provisional lists and of proposals and notices in connection therewith, making and opposing objections thereto, and appearing upon any proceedings relating thereto, and with respect to appealing and receiving notices of and resisting appeals as if he were the occupier of the hereditament.

5. In this Part of this Schedule the expression "revenue officer" has the same meaning as in the First Schedule to the Rating and Valuation (Apportionment) Act, 1928.

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(1) 32 & 33 Vict. c. 67, s. 47 (10).

(2) *Ibid.*, s. 47 (11).

Note.

REVENUE OFFICERS.—*By Sched. I* (10) *of the Act of* 1928,[1] *"revenue officer" is defined as meaning "any officer or person employed by the Commissioners of Inland Revenue and authorised by them to exercise any powers or perform any duties conferred or imposed on a revenue officer by this Schedule."*

Supplemental Lists in London.

6. Notwithstanding anything in section 1 (2) of the Rating and Valuation (Apportionment) Act, 1928,[2] it shall not be necessary for an agricultural, industrial, or freight transport hereditament to be distinguished as such in any supplemental list which will come into force in the County of London on the sixth day of April, 1930, and nothing contained in any such supplemental list shall operate to alter the valuation list in force immediately before the said date as respects any hereditament which in that valuation list is so distinguished as aforesaid.

TENTH SCHEDULE.

(*See sect.* 132 (2).)

ADAPTATION OF ENACTMENTS.

General Adaptations.[3]

1. Subject to the provisions of this Schedule, references in any enactment so far as it applies to England to any of the terms mentioned in the first column of the following table shall be construed as references to the terms mentioned in the second column thereof.

Reference.	Adaptation.
Board of Guardians - - -	Council of a county or county borough.
Board of Management *or* managers of a school district.	Council of a county or county borough.
Chargeability for any poor law purpose to any parish, township or place, *or* to a parish or union, *or* to a union or parish, *or* to the common fund of a union.	Chargeability to a county or county borough.

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[1] 18 & 19 Geo. V, c. 44, Sched. I (10).

[2] Appendix, *post*, p. 360.

[3] See also s. 83 of Act of 1929.

Reference.	Adaptation.
Clerk to the guardians - -	Clerk of the county council or town clerk of the county borough, or such other officer as may for the purpose be appointed or designated by the council.
Common fund of the union *or* fund of the board of guardians for a single parish.	County fund or general rate fund of the county borough.
District school *or* district poor law school.	Separate school.
Guardian—as an individual -	Member of the council of a county or county borough.
Guardians—as a corporate body -	Council of a county or county borough.
Medical officer of a board of guardians *or* of a union.	Poor law medical officer of a county or county borough.
Officer of a board of guardians *or* guardians *or* officer of a union or other area for which a board of guardians are constituted.	Officer concerned with the relief of the poor.
Parish—as the area for which a board of guardians are constituted.	County or county borough.
Parish—as the area in which a settlement is acquired or derived.	County or county borough.
Parochial relief - - -	Poor relief.
Poor law union - - - -	County or county borough.
Treasurer of a poor law union -	County treasurer or treasurer of a county borough.
Union *or* other area for which a board of guardians are constituted.	County or county borough.
Union or parochial relief -	Poor relief.

2. References in any enactment to section 11 (2) of the Local Government Act, 1888,[1] shall be construed as references to the provisions of this Act relating to the rights of certain urban district councils to maintain county roads.

3. Where by any enactment any forms are prescribed, the Minister may by order make such adaptations thereof as may appear to him to be necessary for the purpose of bringing the forms into conformity with this Act.

4. The Minister may by order made on the application of any council exercising functions under this Act make such amendments or adaptations of any local Act as may appear to him to be necessary for the purpose of bringing any provision of that Act into conformity with the provisions of this Act and any such order shall be laid before Parliament as soon as may be after it is made.

Special Adaptations.

5. Section 23 of the Metropolitan Police Act, 1829 (which prescribes the basis on which sums required for the purposes of the Metropolitan police are to be raised[2]), shall have effect as if there were therein substituted for the words from "shall not exceed" to "county rate" the words "shall be assessed on the rateable value of all hereditaments within the parish, township, precinct, or place as appearing in the valuation list for the time being in force."

6. In section 3 of the Marriage Act, 1836,[3] section 7 of the Births and Deaths Registration Act, 1836,[4] and section 27 of the Births and Deaths Registration Act, 1837,[5] references to the union, parish or place for which a superintendent registrar is appointed shall be construed as references to the registration district.

7. In section 9 of the Births and Deaths Registration Act, 1836,[6] after the words "Register Office" there shall be inserted the words "for each registration district."

8. References in sections 189 and 191 of the Public Health Act, 1875,[7] to officers any portion of whose salary is paid out of moneys provided by Parliament shall be construed as references to officers in respect of whose salaries payment is made by a county council or county borough council in pursuance of this Act.

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(1) 51 & 52 Vict. c. 41, s. 11 (2). See *ante*, p. 88.
(2) 10 Geo. IV, c. 44, s. 23.
(3) 6 & 7 Wm. IV, c. 85, s. 3.
(4) 6 & 7 Wm. IV, c. 86, s. 7.
(5) 7 Wm. IV & 1 Vict. c. 22, s. 27.
(6) 6 & 7 Wm. IV, c. 86, s. 9.
(7) 38 & 39 Vict. c. 55, ss. 189, 191. See Glen's P.H. at pp. 513–534, 537–543.

9. The power of a rural district council under section 233 of the Public Health Act, 1875,[1] as amended or applied by any subsequent enactment, to borrow or reborrow sums on the credit of a special rate and to mortgage any such rate, shall include power to borrow or reborrow on the credit of, and for that purpose to mortgage, any moneys from time to time received by the council under this Act and applicable for the purpose for which the loan is contracted.

10. Section 16 of the Highways and Locomotives (Amendment) Act, 1878,[2] shall have effect as if the words "in pursuance of this Act" were omitted therefrom.

11. In section 10 (1) of the Criminal Lunatics Act, 1884,[3] for the words "union or parish" the word "place" shall be substituted.

12. In the Lunacy Act, 1890, the following adaptations shall be made—

(*a*) from section 27 (3) the words "in which the place" shall be omitted and in that subsection, for the words "the parish in which he is judged to be settled is situate" there shall be substituted the words "to the county or county borough in which he is adjudged to be settled."[4]

(*b*) from section 283 (3) the words "or settled in" shall be omitted and the words "or settled in the county or county borough to which the asylum belongs" shall be added at the end of the subsection;[5]

(*c*) section 290, which enables a pauper lunatic, whose settlement cannot be ascertained, to be adjudged chargeable to a local authority, shall cease to have effect, without prejudice to the effect of any order made under that section which is in force on the appointed day.[6]

13. In the Lunacy Act, 1891, the following adaptations shall be made—

(*a*) a direction under section 2 (2) may authorise one relieving officer to discharge the duties of a relieving officer in respect of lunatics throughout any specified portion of a county or county borough;[7]

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(1) Set out in Appendix, *post*, p. 284.

(2) 41 & 42 Vict. c. 77, s. 16.

(3) 47 & 48 Vict. c. 64, s. 10.

(4) 53 Vict. c. 5, s. 27 (3).

(5) *Ibid.*, s. 283 (3).

(6) *Ibid.*, s. 290.

(7) 54 & 55 Vict. c. 65, s. 2 (2).

(*b*) for section 6 the following section shall be substituted :[1]

> "Where a workhouse is not situate within the county or county borough to which the workhouse belongs, a summary reception order made by a justice of the county or county borough in which the workhouse is situate may order a lunatic in the workhouse to be received in any asylum in which pauper lunatics chargeable to the county or county borough to which the workhouse belongs may legally be received";

(*c*) section 25 (which enables the chairman of a board of guardians to be authorised to sign reception orders in respect of pauper lunatics) shall cease to have effect.[2]

14. The right of a rural district council under section 59 (3) of the Local Government Act, 1894,[3] to use for their meetings and proceedings the board room and offices of any board of guardians for the union comprising the district, shall be restricted to premises which, at the passing of this Act, are used by a rural district council under that subsection :

Provided that a county council on giving not less than three months' notice to the rural district council may determine the use of the premises by the district council, but in such case the county council shall if the district council so require provide other suitable accommodation for the purposes aforesaid, and if any difference arises between a county council and a district council as to the suitability of the accommodation proposed to be provided by the county council, the difference may, on the application of either party, be decided by the Minister.

15. For section 122 (2) of the Education Act, 1921,[4] there shall be substituted the following subsection :—

> " (2) Subject to the foregoing provisions of this section as to consultation before charging certain expenses on certain areas, any charge or allocation of expenses made by a county council under this section or under any corresponding enactment repealed by this Act may at any time be cancelled or varied by the county council."

16. As from the first day of October, 1929, section 10 of the Allotments Act, 1922,[5] shall not apply to land which is agricultural land within the meaning of Part V of this Act.[6]

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(1) 54 & 55 Vict. c. 65, s. 6.

(2) *Ibid.*, s. 25.

(3) 56 & 57 Vict. c. 73, s. 59 (3).

(4) 11 & 12 Geo. V, c. 51, s. 122 (2).

(5) 12 & 13 Geo. V, c. 51, s. 10.

(6) See *ante*, p. 127.

17. As from the first day of October, 1929, the relief to occupiers of agricultural hereditaments granted by this Act shall not be taken into account by an arbitrator in determining for the purposes of section 12 of the Agricultural Holdings Act, 1923,[1] what rent is properly payable in respect of a holding.

18. For the purpose of determining under section 1 or section 2 of the Education (Institution Children) Act, 1923,[2] the area in which the place of settlement of a child is situated, the place of settlement shall be deemed to be the parish which would have been the place of settlement if this Act had not been passed.

19. Section 2 (1) (*b*) (i) of the Teachers' (Superannuation) Act, 1925,[3] shall have effect as if after the words " public elementary school " there were inserted the words " or, after the first day of April, 1930, in or in connection with a poor law school."

20. Section 17 (2) of the Tithe Act, 1925,[4] shall, for the purposes of any application for the redemption of any lay tithe rentcharge on any land made by the owner of the land on or after the first day of October, 1929, have effect as if—

(*a*) for the words " then if the land charged with the tithe rentcharge, except so far as it consists of buildings in the same occupation, is agricultural land for the purposes of the Agricultural Rates Act, 1896," there were substituted the words " then, if and so far as the land charged with the tithe rentcharge is agricultural land or agricultural buildings within the meaning of Part V of the Local Government Act, 1929 "; and

(*b*) for the words " any rate to which the Agricultural Rates Act, 1896, applies," there were substituted the words " any general rate (including any additional item thereof) "; and

(*c*) there were inserted at the end of the subsection the following words :—

> " In relation to any period before the date on which the first general rate under the Rating and Valuation Act, 1925, became leviable in the rating area in which the land is situate, the reference in this subsection to a general rate shall be construed as a reference to any rate to which the Agricultural Rates Act, 1896, applied during the said period in that area."

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(1) 13 & 14 Geo. V, c. 9, s. 12.

(2) 13 & 14 Geo. V, c. 38, ss. 1, 2.

(3) 15 & 16 Geo. V, c. 59, s. 2 (1) (*b*) (i).

(4) 15 & 16 Geo. V, c. 87, s. 17 (2).

21. In the Poor Law Act, 1927, the following adaptations shall [in addition to the numerous repeals by s. 137, *ante*] be made—

(*a*) for section 2 (1) the following subsection shall be substituted : [1]

> " (1) The law relating to the relief of the poor shall be administered locally by councils of counties and county boroughs, and in the administration thereof a member of a county council or county borough council, or a committee or sub-committee of such a council, shall not, save as otherwise expressly provided by this Act, or any rules, orders or regulations of the Minister made thereunder, be capable of acting by virtue of his office except at a meeting of the council, committee or sub-committee."

(*b*) section 6,[2] as applied by section 24 (4) of the Local Government Act, 1894,[3] shall have effect as if the words " or, in the case of a guardian for a parish wholly or partly situate within a borough, is qualified to be elected a councillor for that borough " were omitted therefrom ;

(*c*) nothing in sections 29 to 32 or in section 224 shall apply to officers appointed by the council of a county or county borough under any Act other than the Poor Law Act, 1927 ; [4]

(*d*) from section 46 (1), the words " for the district wherein the poor law union or the greater part thereof is comprised " shall be omitted ; [5]

(*e*) from section 49 (1), the words " a majority of " shall be omitted ; [6]

(*f*) from section 52, there shall be omitted, in proviso (i) thereof, the words " in the interval between their meetings," and in proviso (ii) thereof, the words " the board of guardians are not sitting or " ; [7]

(*g*) in section 73 (1), for the words " poor law union " there shall be substituted the words " county or county borough or in any part thereof " ; [8]

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(1) 17 & 18 Geo. V, c. 14, s. 2 (1).
(2) *Ibid.*, s. 6.
(3) 56 & 57 Vict. c. 73, s. 24 (4).
(4) 17 & 18 Geo. V, c. 14, ss. 29–32, 224.
(5) *Ibid.*, s. 46 (1).
(6) *Ibid.*, s. 49 (1).
(7) *Ibid.*, s. 52 (i) (ii).
(8) *Ibid.* s. 73 (1).

(*h*) in section 88 (2), there shall be substituted for the words " one of their number " the word " person "; [1]

(*i*) in section 116 (*b*), for the words " comprising the parish " there shall be substituted the words " to which he was ordered to be removed "; [2]

(*j*) in section 123 (1), for the words " the workhouse of the last-mentioned board " there shall be substituted the words " any workhouse of the last-mentioned council or, if any particular workhouse has been designated for the purpose by them, at that workhouse," and from subsection (2) of the said section, the words " guardian or " shall be omitted; [3]

(*k*) in section 124 (5) (*a*), for the words " in the county court within whose district their poor law union or the greater part thereof is situated " there shall be substituted the words " in any county court the district whereof is wholly or partly comprised in their county or county borough "; [4]

(*l*) in section 128 (1) and (4), for the words " the workhouse," wherever those words occur, there shall be substituted the words " any workhouse "; [5]

(*m*) from section 172 the word " chargeability " shall be omitted, and for the words " poor law union " there shall be substituted the word " parish "; [6]

(*n*) from section 186 (1), the words " and where meetings of the dispensary committee may be held " shall be omitted; [7]

(*o*) in section 209, for the words from " a school or asylum " to the end of the section the words " a separate school " shall be substituted; [8]

(*p*) from section 210, the words " or a dispensary committee," and the words " dispensary committee " shall be omitted; [9]

(*q*) in section 222, for the words " and any parochial and other local meeting " the words " or committee or subcommittee " shall be substituted; [10]

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(1) 17 & 18 Geo. V, c. 14, s. 88 (2).
(2) *Ibid.*, s. 116 (*b*).
(3) *Ibid.*, s. 123 (1) (2).
(4) *Ibid.*, s. 124 (5) (*a*).
(5) *Ibid.*, s. 128 (1) (4).
(6) *Ibid.*, s. 172.
(7) *Ibid.*, s. 186 (1).
(8) *Ibid.*, s. 209.
(9) *Ibid.*, s. 210.
(10) *Ibid.*, s. 222.

(*r*) for section 225, the following section shall be substituted:[1]

> "A certificate of chargeability in such form as may be prescribed by order of the Minister, or in a form to the like effect, may be issued by the council of any county or county borough, and every such certificate purporting to be signed by the clerk of the council shall, unless the contrary is shown, be sufficient evidence of the truth of all the statements contained therein, and shall, within the period of twenty-one days from the date of the certificate, be received in evidence accordingly by all courts of law and all justices and for all purposes without proof of the signature or of the official character of the person signing it."

22. The provisions of the Poor Law Act, 1927, with respect to the qualification, election and term of office and retirement of guardians and to the qualification of the chairman of a board of guardians shall, as applied by section 24 (4) of the Local Government Act, 1894,[2] to district councillors and to the chairman of a district council of a rural district, have effect as if for references therein to "a guardian," "guardians," "guardians of a poor law union," and "members of a board of guardians," there were substituted references to a "rural district councillor" or "rural district councillors," as the case may require, as if for references to "board of guardians" there were substituted references to "rural district council," and as if for references to "union" or "poor law union" there were substituted references to "rural district."

Special adaptations applying to the County of London.

23.—(1) References in any other enactment to the Metropolitan Asylum District or to an asylum district, shall be construed as references to the County of London, and references in any other enactment to the Metropolitan Asylum Managers or Metropolitan Asylums Board, or to an asylum board or managers of an asylum district constituted under the Poor Law Act, 1927, or under any enactment repealed by that Act, shall be construed as references to the London County Council.

(2) References in any enactment to asylums or hospitals under the Metropolitan Poor Act, 1867, or provided by the Metropolitan Asylum Managers or by an asylum board, shall be construed as

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(1) 17 & 18 Geo. V, c. 14, s. 225.

(2) 56 & 57 Vict. c. 73, s. 24 (4).

references to asylums and hospitals provided for the county of London under the Poor Law Act, 1927, or any enactment repealed by that Act.

24. In the application to the county of London of—

(*a*) the Births and Deaths Registration Acts, 1836 to 1926;

(*b*) the Vaccination Acts, 1867 to 1907;

(*c*) the Valuation (Metropolis) Act, 1869, and any enactment thereby applied to the county of London or amending that Act; and

(*d*) any rule, regulation, byelaw, order or award made under any Act or enactment mentioned in this paragraph;

references therein to any of the terms mentioned in the first column of the following table shall be construed as references to the terms mentioned in the second column thereof.

Reference.	Adaptation.
Board of guardians	Common council and council of a metropolitan borough.
Clerk to the guardians	Town clerk of the city of London or metropolitan borough, or such other officer as may for the purpose be appointed or designated by the council.
Common fund of the union *or* fund of the board of guardians for a single parish.	Fund out of which the general expenses of the common council or council of a metropolitan borough are payable.
Guardian—as an individual	Member of the common council or council of a metropolitan borough.
Guardians — as a corporate body.	Common council and council of a metropolitan borough.
Poor law union	City of London or metropolitan borough.
Union *or* other area for which a board of guardians are elected.	City of London or metropolitan borough.

25. The last foregoing paragraph shall not affect the construction of the words "guardians and officers of guardians" in section 5 of the Vaccination Act, 1871, or of the words "medical officer of any board of guardians" in section 13 of that Act.[1]

Savings.

26. The adaptations effected by this Schedule shall not—

(*a*) affect the authorities by whom the provisions of the Public Health (London) Act, 1891, are to be executed or the manner in which their expenses are to be defrayed; or

(*b*) affect the manner in which any precept for the payment of the expenses of a parish council or parish meeting is to be enforced.

ELEVENTH SCHEDULE.

(*See sect.* 136.)

PROVISIONS FOR SECURING ALLOWANCE OF REBATES TO SELECTED TRAFFICS CORRESPONDING TO RATE RELIEF OF CERTAIN COMPANIES.

PART I.

Provisions as to Allowance of Rebates and Reimbursement of Companies out of Rate Relief.

1. The companies to which this Schedule applies are:

(*a*) every railway company for which a schedule of standard charges has been settled under the Railways Act, 1921, or to which such a schedule is for the time being applied under section 33 of that Act,[2] being a company whereof the railway is used for the conveyance of merchandise otherwise than by passenger train or carriage; and

(*b*) every light railway company, being a company whereof the light railway is used as a public railway for the conveyance of merchandise otherwise than by passenger train or carriage;

and such companies are in this Schedule referred to as "the companies."

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(1) 34 & 35 Vict. c. 98, ss. 5, 13.

(2) 11 & 12 Geo. V, c. 55, s. 33.

2. There shall be established and maintained a fund to be called the " Railway Freight Rebates Fund " (hereinafter referred to as " the fund ") which shall be administered and controlled subject to the provisions of this Schedule by the Railway Clearing House, and as from the first day of October, 1929,[1] each of the companies shall, by equal monthly instalments beginning on the fifteenth day of November, 1929, pay to the fund in respect of every year sums equal in the aggregate to the estimated rate relief of the company in that year; and as soon as the difference, if any, between the actual rate relief of a company in any year and the estimated rate relief of the company in that year has been ascertained, a sum equal to the difference shall be paid by way of adjustment out of the fund to the company or by the company to the fund, as the case may require.

3. The companies shall jointly, on or before the first day of June, 1929, prepare and submit to the tribunal a scheme (hereinafter referred to as " the scheme ") providing for the allowance by the companies of rebates from the carriage charges made by them in respect of the selected traffics, calculated in manner hereinafter appearing :

Provided that a scheme shall be deemed to have been prepared and submitted to the tribunal by the companies jointly if it has been prepared and so submitted by or on behalf of companies (being companies to which this Schedule applies) of which the aggregate total expenditure on capital account is not less than ninety per cent. of the aggregate total expenditure on capital account of all the companies.

4. If the scheme so provides there shall, in every year, be set aside in the fund for the purpose of meeting any deficiency therein at the end of the year a contingency reserve of such an amount, not exceeding five per cent. of the aggregate of the sums paid and payable into the fund in respect of that year under paragraph 2 of this Part of this Schedule, as the scheme may determine.

5.—(1) There shall in respect of every year be paid out of the general moneys of the fund—

(*a*) in respect of administrative expenses, a sum equal to one-half of one per cent. of the aggregate of the estimated rate relief of the companies in respect of that year or such higher percentage thereof as the tribunal may allow on application in that behalf being made by the companies; and

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(1) This date was advanced to December 1, 1928—see Introduction, *ante*, p. 11.

(*b*) any interest payable on sums borrowed by the Railway Clearing House in accordance with the provisions of this Schedule; and

(*c*) to each of the companies a sum, determined in accordance with the provisions of the scheme, equal to the amount of the rebates allowed by the company under the scheme in respect of selected traffics delivered in that year for conveyance by railway.

(2) Out of the sum payable under sub-paragraph (1) (*a*) of this paragraph there shall be allocated and paid to the Railway Clearing House a sum equal to the amount of the administrative expenses incurred by them in that year in giving effect to the provisions of this Schedule and the balance shall be appropriated for the purpose of meeting the expenses of the companies incurred in that year under or for the purposes of the scheme and shall be apportioned between the companies and paid to them in proportion to the rebates respectively allowed by them under the scheme.

6.—(1) The rebates provided for by the scheme shall be so calculated, as nearly as may be, that—

(*a*) the aggregate of the rebates in respect of the group of selected traffics contained in Part II of this Schedule will amount annually to a sum equal to one-fifth of the annual net revenue of the fund; and

(*b*) the aggregate of the rebates in respect of the group of selected traffics contained in Part III of this Schedule will amount annually to a sum equal to seven-tenths of the annual net revenue of the fund; and

(*c*) the aggregate of the rebates in respect of the group of selected traffics contained in Part IV of this Schedule will amount annually to a sum equal to one-tenth of the annual net revenue of the fund.

(2) The scheme shall make provision for securing that the rebates in respect of the selected traffics contained in each of the several groups, other than rebates from tolls, will be at a uniform rate and that rebates from any toll in respect of the selected traffics shall be such percentage of the toll as may be determined by the scheme.

(3) In preparing the scheme—

(*a*) the receipts of the companies in respect of the several selected traffics shall, for the purpose of calculating the rebates to be allowed under the scheme, be taken to be those estimated for the year 1927; and

(*b*) the rate-relief of the companies in the year beginning on the first day of October, 1929, shall be taken to be of such amount as may be estimated by the companies.

(4) The scheme shall provide for the manner in which the rebates thereby provided for are to be allowed, and for the time at which payments or instalments of payments are to be made out of the fund to the companies, and contain such supplemental and consequential provisions as may be necessary for giving effect to the objects of this Schedule, and, in particular, may make provision for enabling rebates to be allowed in respect of merchandise consigned as being intended to be so used, shipped or delivered as to constitute it a selected traffic, before it has been so used, shipped or delivered, and may contain provisions enabling the Railway Clearing House to remit any repayment due to the fund by any company in respect of any amount allowed in error by the company in excess of the rebates required by the scheme if the Railway Clearing House are satisfied that all proper precautions were taken by the company to avoid such errors and that recovery by the company of the amount allowed in excess is not reasonably practicable.

(5) The scheme shall make provision for apportioning the rebates to be allowed among the carriage charges made in the following cases:—

(*a*) in respect of coal delivered to a washery, coke oven, or patent fuel works, from two or more collieries where the coal is so mixed that it cannot be identified as being consigned from any one colliery and a part only of the coal, or of the resultant coke, or patent fuel is a selected traffic; and

(*b*) in respect of coal shipped coastwise where the coal is so mixed that it cannot be identified as being consigned from any one colliery and a part only thereof is exported; and may provide for any certificates necessary for such apportionment being obtained by the companies and for the allowance of rebates apportioned upon the basis thereof, subject to occasional verification of the facts thereby certified.

7.—(1) Printed copies of the scheme as submitted to the tribunal shall be made available by the companies for purchase at such places and at such price as the tribunal may direct, and notice of the places and price at which such copies may be purchased shall be published in the London and Edinburgh Gazettes. Not less than twenty-one days after the publication of the said notices the tribunal shall consider the scheme, and, after hearing any of the companies or any representative body of traders interested which may be desirous of being heard, shall have power to make such modifications therein, if any, as the tribunal think necessary or desirable, and upon receiving a certificate, as respects England from the Minister of Health and as respects Scotland from the Secretary of State, showing the amount estimated by them respectively as being the estimated rate-relief of the companies in the year beginning on the first day of October, 1929, shall adopt the estimates shown by the certificates and shall make such modifications in the scheme as may be thereby rendered necessary.

(2) After making such modifications in the scheme as the tribunal are hereinbefore required to make and any other modifications which they think necessary or desirable, and upon being satisfied that the scheme complies with the requirements of this Schedule, the tribunal shall, not later than the thirty-first day of July, 1929, approve the scheme.

8. If the companies fail to submit the scheme to the tribunal before the said first day of June, or before such later date as may be allowed by the tribunal, the scheme shall be prepared and made by the tribunal before the said thirty-first day of July, and the companies shall furnish to the tribunal such information as the tribunal may require for that purpose.

9. The scheme, as so approved or made by the tribunal under the foregoing provisions of this Schedule, shall come into operation on the first day of October, 1929, and shall not be revoked, and shall not be altered otherwise than as hereinafter in this Schedule provided, and any person against whom a carriage charge is made by any of the companies in respect of any of the selected traffics delivered on or after that date for conveyance by railway shall be entitled to such rebate therefrom as may be provided for by the scheme.

10.—(1) The tribunal shall review the operation of the scheme within two months after the end of every year and shall give not less than twenty-one days' notice of the date, time and place of the sitting at which the review will take place, and at any such review the tribunal, after hearing any of the companies or any representative body of traders interested which may be desirous of being heard, and after considering all the circumstances (including the receipts of the companies in respect of the several selected traffics delivered during the year preceding the review for conveyance by railway), shall, subject as hereinafter provided, by order make in the scheme such modifications, if any, as they think necessary or desirable, but so that the provisions thereof shall comply with the requirements of this Schedule :

Provided that—

(*a*) the tribunal shall not by any such order alter the rate for the time being in force of any rebate provided for by the scheme unless—

(i) a debit balance is brought forward in the fund from the last preceding year ; or

(ii) the tribunal is of opinion that in the year in which the review takes place the amount of the rate-relief of the companies will be less than the amount thereof estimated for the purpose of calculating the rebates in force, and that, unless such alterations are made, there will be a deficiency in the fund in respect of that year ; or

(iii) the tribunal is of opinion that, unless such alterations are made, the aggregate of the rebates in respect of any group of selected traffics will, in the year in which the review takes place, fall short of a sum equal to the appropriate proportion of the net revenue of the fund for that year by more than the fixed marginal allowance ; and

(*b*) the rates of rebates for the time being in force in respect of any group of selected traffics shall not be reduced by any alteration made under paragraph (*a*) (iii) of this proviso, unless the tribunal is of opinion that, if such reductions are not made, the aggregate of the rebates in respect of that group will, in the year in which the review takes place, exceed a sum equal to the appropriate proportion of the net revenue of the fund for that year by more than the fixed marginal allowance ; and

(*c*) no alteration shall in any case be made in the rates of rebates to be allowed in respect of the selected traffics which would cause the aggregate of the rebates to be allowed in respect of any group of selected traffics to fall short of a sum equal to the appropriate proportion of the net revenue of the fund.

(2) In this paragraph the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"Appropriate proportion of the net revenue of the fund" means, as respects any group of selected traffics, the proportion specified in paragraph 6 (1) of this Part of this Schedule in relation to that group :

"Fixed marginal allowance" shall in any year be taken to be, in relation to any group of selected traffics, an amount equivalent to one per cent. of the amount estimated by the tribunal as being the aggregate of the carriage charges made and to be made by the companies in respect of the traffics contained in that group, delivered in that year for conveyance by railway.

11. If it appears to the Minister of Transport that by reason of some exceptional occurrence the net revenue of the fund for any year is or will be abnormally greater or less than the amount which, upon the basis of the rebates for the time being in force, will be required, to pay the sums payable thereout under paragraph 5 of this Part of this Schedule to the companies in respect of that year, and that there is danger of such instability being thereby occasioned in the rates of the said rebates as to affect prejudicially the operation of the scheme, he shall issue to the tribunal a certificate that in his opinion the rates of the rebates to be allowed in respect of any group of selected traffics specified in the certificate ought to be reviewed, and upon receipt of such a certificate the tribunal shall, notwithstanding anything in this Part of this Schedule, have power to make such alterations in the scheme as they consider desirable for stabilising, so far as practicable, the rates of the rebates to be allowed in respect of that group, and, if they think fit, for securing that any abnormal excess shall be expended, or abnormal deficiency made good, as the case may be, over such period of years as they think proper.

12. (1) The tribunal shall have the like powers to make general rules governing their procedure and practice and generally for carrying into effect their functions under this Schedule, and to prescribe a scale of fees for and in connection with proceedings before them, as they have under section 22 of the Railways Act,

1921,[1] with respect to their functions under Part III of that Act, but subject to the like approval, consent and limitations as are required or imposed by that section, and rules made under this paragraph may apply, with the necessary adaptations, any of the rules for the time being in force under the said section 22.

(2) Sections 21, 22 (2), 23, 24 (except subsection (4) thereof), and 25 (except so far as it relates to appeals) of the said Act, shall apply with respect to the functions of the tribunal under this Schedule as they apply for the purposes of that Act.[2]

(3) Section 54 (1) of the said Act (which relates to the publication of schedules of standard charges)[3] shall apply with respect to the scheme and to any orders of the tribunal modifying the scheme as it applies to schedules of standard charges, and the Documentary Evidence Act, 1868,[4] as amended by the Documentary Evidence Act, 1882,[5] shall apply with respect to the scheme and with respect to any such orders as if they were documents issued by the Minister of Transport.

(4) The annual report of their proceedings under the Railways Act, 1921, made by the tribunal to the Minister of Transport under section 22 (3) of that Act and laid before Parliament, shall include a report of their proceedings under this Schedule and of the operation of the scheme.[6]

13. The following provisions shall have effect with respect to the fund—

(*a*) All moneys of the fund shall be kept separate from all other moneys under the control of the Railway Clearing House, and the Railway Clearing House shall keep separate accounts with respect to all moneys of the fund :

(*b*) The Railway Clearing House shall invest in such investments as they think fit such part of the moneys of the fund as they may from time to time consider to be not immediately required, and the interest on any such investments shall be paid into the fund :

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(1) 11 & 12 Geo. V, c. 55, s. 22.

(2) *Ibid.*, ss. 21, 22 (2), 23, 24, 25.

(3) *Ibid.*, s. 54 (1).

(4) 31 & 32 Vict. c. 37.

(5) 45 Vict. c. 9. As to these two Acts, see "Glen's Public Health," 1925 Edition, at pp. 261, 262.

(6) 11 & 12 Geo. V, c. 55, s. 22 (3).

(*c*) the Railway Clearing House shall have the like powers with respect to the opening and keeping of bank accounts and the making of payments thereout, and to the recovery of sums due to the fund, as they have for the purposes of their functions in relation to the Railway Clearing System and to the funds applicable to the expenses of that System :

(*d*) the Railway Clearing House may, with the consent of the Minister of Transport and subject to such conditions as he may think fit, borrow moneys on the security of the fund for purposes connected with the scheme :

(*e*) the accounts of the fund shall be audited annually by an auditor appointed by the Minister of Transport, and the expenses of any such audit shall be defrayed as part of the administrative expenses of the Railway Clearing House. It shall be the duty of the companies and of the Railway Clearing House to furnish all such information and give all such facilities as may be required by the auditor for the purposes of any such audit :

(*f*) abstracts of the accounts of the fund, certified by the auditor, shall be furnished annually to the Minister of Transport at such times and in such form as he may approve :

(*g*) if the net revenue of the fund for any year is insufficient to pay the sums determined in accordance with the provisions of paragraph 5 (1) (*c*) of this Part of this Schedule to be due to the companies in respect of that year, the Railway Clearing House shall certify the amount of the deficiency, and one moiety of that amount shall be made good by the companies in manner hereinafter appearing, and the other moiety thereof shall be made good out of any moneys standing to the credit of the contingency reserve account, and if the moneys standing to the credit of that account as at the end of the year are insufficient to make good the said moiety, the balance of the deficiency shall be brought forward as a debit balance in the fund : Provided that in determining for the purposes of this provision whether there is for any year such a deficiency as aforesaid or the amount of any such deficiency, no account shall be taken of any sum paid in that year by way of adjustment under paragraph 2 of this Part of this Schedule :

(*h*) any moneys standing to the credit of the contingency reserve account as at the end of any year, which are not applied under the provisions of the last foregoing sub-paragraph towards making good a deficiency, shall be brought forward as part of the general moneys of the fund :

(*i*) any balance standing to the credit of the general account of the fund as at the end of any year shall be brought forward therein.

14. Any amount required in any year under the foregoing provisions of this Schedule to be paid by the companies towards making good any deficiency in the fund shall be apportioned by the Railway Clearing House between the several companies in such proportion as may have been determined before the end of the year by agreement between the companies or by an arbitrator appointed on the application of any company by the Minister of Transport, or, in default of such determination, in the proportions which the receipts of the several companies respectively bear to the total receipts of all the companies, being in each case receipts in respect of the selected traffics delivered in that year for conveyance by railway ; and a sum equal to the part of the deficiency so apportioned to any company shall, on the demand of the Railway Clearing House, be paid to the fund by that company.

15. Any sum allowed by a company by way of rebate which may be found not to have been properly allowable (either by reason of the merchandise in respect of which the rebate was allowed not having been so used, shipped or delivered as to constitute it a selected traffic, or for any other reason) shall be recoverable by the company as a debt due from the person to whom it was allowed.

16. Any question as to whether any rebate is or was allowable or as to the basis on which any rebate should be or should have been calculated under the scheme may, and in the event of a dispute shall, be determined by the tribunal, and the decision of the tribunal upon any such question shall be final and conclusive.

17. In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :

" Carriage-charges " means such of the charges for the time being in force for the carriage of merchandise by railway or light railway as may be determined by the scheme in relation to any rebate thereby provided for :

"Coke oven" means works consisting of coke ovens wholly or mainly engaged in the production of coke for metallurgical purposes :

"Delivered for conveyance by railway" means delivered to any of the companies for conveyance, whether by that company or by some other of the companies, by railway :

"Estimated rate-relief" means in relation to any company in any year the sum taken as being the rate-relief of the company in the estimate adopted by the tribunal for the purpose of calculating the rebates to be allowed by the companies under the scheme in that year :

"Exported" in relation to coal, coke or patent fuel, means shipped to places outside the British Islands, or as bunkers for ships proceeding to places outside those islands, or as bunkers for fishing vessels, and "exported coal, coke, or patent fuel" includes coal, coke, and patent fuel shipped coastwise before being exported :

"General moneys of the fund" means, as respects any year, the revenue of the fund for that year, including any balance brought forward therein, but excluding any sums set aside in that year in accordance with the provisions of the scheme as a contingency reserve :

"Iron or steel works" means works which consist wholly or mainly of blast furnaces, puddling furnaces, steel furnaces, or rolling mills, or of hammers or presses which produce all or any of the following articles, that is to say, forgings weighing not less than ten hundredweight, blooms, billets, and bars :

"Net revenue of the fund" means, as respects any year, the revenue of the fund for that year (including any balance brought forward therein, but excluding any sums set aside in that year in accordance with the provisions of the scheme as a contingency reserve and any sums which may be paid to the fund by the companies to meet a deficiency in accordance with the requirements of paragraph 13 (*g*) of this Part of this Schedule), after deducting the sums directed by paragraph 5 (1) (*a*) and (*b*) of this Part of this Schedule to be paid out of the fund :

" Railway company," " light railway company," " light railway," " freight transport hereditaments lands and heritages " and " railway transport purposes " have the same meanings respectively as in the Rating and Valuation (Apportionment) Act, 1928 :[1]

" Rate-relief," in relation to any of the companies, means the amount of the difference between the aggregate of the sums paid and payable by the company by way of rates in respect of freight transport hereditaments lands and heritages, occupied and used wholly or partly for railway transport purposes as part of the railway or light railway undertaking of the company, whereof the rateable value is ascertained under the provisions of Part V of this Act or of any corresponding enactment extending to Scotland, and the aggregate of the sums which would have been so paid and payable in respect of those hereditaments lands and heritages, if those provisions had not been passed ; and in relation to all the companies, means the aggregate amount of the differences aforesaid :

" Representative body of traders interested " means any association or body of persons which satisfies the tribunal that it represents a substantial number of persons interested in the selected traffics :

" Selected traffics " means the traffics mentioned in Parts II, III, and IV of this Schedule, but, save as respects milk, does not include any traffics conveyed at passenger train rates ; and the selected traffics mentioned in each of the said Parts are collectively referred to in this Schedule as a group of selected traffics :

" Shipped coastwise," in relation to exported coal, coke, or patent fuel means shipped from a place within the British Islands to another place within those islands :

" Tribunal " means the Railway Rates Tribunal :

" Washery " means works for washing or cleaning coal :

" Year " means a period beginning on the first day of October and ending on the next subsequent thirtieth day of

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[1] See Note to s. 68, *ante*.

September, and the expression "annually" shall be construed accordingly.[1]

18.—(1) If the amount of any moneys provided by Parliament for the purposes of any scheme issued by the Minister of Transport providing for the allowance by any of the companies of rebates in respect of selected traffics delivered between the thirtieth day of November, 1928, and the first day of October, 1929, for conveyance by railway, is more than sufficient for the purposes of that scheme, the balance shall, on or before the first day of January, 1930, or such later date as the Minister of Transport may allow, be paid into the fund and brought forward therein, and if the said amount is insufficient for the said purpose, the Railway Clearing House shall certify the amount of the deficiency, and the amount of the deficiency as so certified shall be apportioned by the Railway Clearing House between the several companies to which that scheme applies in such proportion as may have been agreed between those companies or, in default of agreement, in the proportions which the receipts of the several companies to which that scheme applies respectively bear to the total receipts of all the said companies, being in each case receipts in respect of the selected traffics delivered between the dates aforesaid for conveyance by railway; and a sum equal to the part of the deficiency so apportioned to any company shall, on the demand of the Railway Clearing House, be paid to them by that company.

(2) Any sum recoverable by the Railway Clearing House as a debt due to any fund established for the purposes of such a scheme as is mentioned in the last foregoing sub-paragraph but not recovered before the accounts of that fund are closed, shall be recoverable by the Railway Clearing House as a debt due to the fund established under this Schedule.

19. In any proceedings under the Railways Act, 1921, all payments by any of the companies to the fund in accordance with the provisions of this Schedule shall be treated as payments of rates and the tribunal shall not take into account any rebates allowable under the scheme or under any arrangements in operation at the passing of this Act having as their object the allowance of rebates from charges in respect of the selected traffics.

20. In making any assessment or valuation for rating purposes by reference to the accounts, receipts, or profits of the under-

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(1) See footnote (1), *ante*, p. 256.

taking carried on by any of the companies, all payments by the company to the fund in accordance with the provisions of this Schedule shall be treated as payments of rates.

21. Where rates are payable by any of the companies in respect of the occupation of any part of a freight transport hereditament let out by the company to a tenant but not so as to be capable of separate assessment, then, for the purposes of computing any sum payable by the tenant to the company under any contract made before the commencement of this Act in respect of the rates so paid, payments to the fund by the company in accordance with the provisions of this Schedule in respect of that part of the hereditament shall be treated as payments of rates.

PART II.

Agricultural Selected Traffics.

Note.

AGRICULTURAL SELECTED TRAFFICS.—*The present Part of Schedule XI specifies the following traffics, if " used in Great Britain," namely, " Manure, street, stable or farmyard, in bulk." " Manures, other than street, stable or farmyard, in bulk." " Lime, limestone, chalk, basic slag, and salt for use as manure." And " Any other substance for use direct as manure, or any manure substance to be mixed and used as manure, when packed and so consigned."*

It also specifies the following, if " used in Great Britain for live-stock or poultry feeding," namely, " Grain, ground or flaked." " Oil cake, whole, broken, or ground." " Meals or husks, in cases, casks, or sacks." " Foods consisting of meals, with spice, molasses, or condiment." " Milling offals, included in the grain list in the Classification of Merchandise for conveyance by railway." " Treacle delivered direct to farmers." " Ensilage." " Hay." " Hay or straw, chopped." " Provender, consisting of chopped hay or straw, mixed with articles included in the grain list in the Classification of Merchandise for conveyance by railway." " Beetroot pulp (residue from sugar making)." " Carrots, mangel wurzel, or turnips, in bulk." " Grains, brewers' or distillers' (or draff)." " Potatoes, except new potatoes as defined in the Classification of Merchandise for conveyance by railway." " Milk (including separated milk but not condensed or dried milk)." And " Live stock."

PART III.

Coal, Coke and Patent Fuel Selected Traffics.

Exported coal, coke, or patent fuel. Coal, coke, or patent fuel delivered to and used in iron or steel works. Such coal delivered to patent fuel works as is used for the manufacture of exported patent fuel. Such coal delivered to a washery as is washed or cleaned thereat before being exported or delivered to and used in iron or steel works. Such coal delivered to a coke oven (situate elsewhere than at an iron or steel works) as is used for the manufacture of coke which is exported or delivered to and used in iron or steel works.

PART IV.

Other Selected Traffics.

Note.

OTHER SELECTED TRAFFICS.—*The present Part of Schedule XI specifies the following traffics, namely, "Timber, iron, or steel, for propping or shoring purposes delivered to a mine."*

It also specifies the following if "delivered to iron or steel works," namely, "Ores in Classes 1 and 2 of the Classification of Merchandise for conveyance by railway." "Cinders, containing iron." "Hammer scale." "Mill cinder or tap." "Mill scale." "Pyrites, iron in Class 1 of the Classification of Merchandise for conveyance by railway." And "Lime and limestone in bulk."

TWELFTH SCHEDULE.

ENACTMENTS REPEALED

(*See Note to Sect.* 137)

APPENDIX

APPENDIX

(For List of Sections of Acts in Appendix, see "Table of Contents.")

THE PUBLIC HEALTH ACT, 1875.

PART I.

* * * *

Sect. 4. [*Definitions.*]

In this Act, if not inconsistent with the context, the following words and expressions have the meanings hereinafter respectively assigned to them; that is to say,

* * * *

"Person" includes any body of persons, whether corporate or unincorporate:

"Local authority" means urban sanitary authority and rural sanitary authority:

"Surveyor" includes any person appointed by a rural authority to perform any of the duties of surveyor under this Act:

"Lands" and "premises" include messuages buildings lands easements and hereditaments of any tenure:[1]

"Owner" means the person for the time being receiving the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent:[2]

"Rackrent" means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises; and the full net annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent:[3]

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(1) See "Glen's Public Health," 1925 Edition, at pp. 14, 15.

(2) See *ibid.* at pp. 15-22; and *Watts* v. *Battersea B.C.* (C.A.), 1929 W.N. 92.

(3) See *ibid.* at pp. 22, 23.

"Street" includes any highway [(*not being a turnpike road*)], and any public bridge (not being a county bridge), and any road lane footway square court alley or passage whether a thoroughfare or not :[1]

"House" includes schools, also factories and other buildings in which [*more than twenty*] persons are employed [*at one time*] :[2]

"Drain" means any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed :[3]

"Sewer" includes sewers and drains of every description, except drains to which the word "drain" interpreted as aforesaid applies, and except drains vested in or under the control of any authority having the management of roads and not being a local authority under this Act :[4]

* * * *

PART III.

* * * *

Sect. 131. [*Power of local authority to provide hospitals.*][5]

Sect. 132. [*Recovery of cost of maintenance of patient in hospital.*][6]

Sect. 133. [*Power to provide temporary supply of medicine.*][7]

PART IV.

* * * *

Sect. 146. [*Power of urban authority to agree as to making of new public roads.*]

Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their

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(1) See Note, *ante*, p. 89 (5), footnote (2), *post*, p. 275, and Glen's P.H. at pp. 23–29. By s. 5 of the Highway Act, 1835 (5 & 6 Wm. IV, c. 50), "the word 'highways' shall be understood to mean all roads, bridges (not being county bridges), carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements." The repair of certain bridges, as parts of certain streets vested in the highway authority, was enforced in *Attorney-General* v. *Hornsey B.C.*, L.R. 1927, 1 Ch. 331; 96 L.J. Ch. 164; 136 L.T. 502; 91 J.P. 61; 25 L.G.R. 260.

(2) See Glen's P.H. at pp. 29–31.

(3) See *ibid.* at pp. 31–33.

(4) See s. 29 (2) (3) of Act of 1929, *ante*, p. 74, and Glen's P.H. at pp. 33–41. For the most recent case on this definition, see *Clark* v. *Epsom R.D.C.*, L.R. 1929, 1 Ch. 287 ; 93 J.P. 67.

(5) Set out in Note to s. 14 of Act of 1929, *ante*, p. 54.

(6) See Note, *ante*, p. 55.

(7) Set out in Note to s. 14, *ante*, p. 55.

district; they may also, [*with the consent of two-thirds of their number*,] agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads.[1]

Sect. 147. [*Power of urban authority to construct or adopt public bridges, etc., over or under canals, etc.*]

Any urban authority may agree with the proprietors of any canal railway or tramway to adopt and maintain any existing or projected bridge viaduct or arch within their district, over or under any such canal railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to construct any such bridge viaduct or arch at the expense of such proprietors; they may also, [*with the consent of two-thirds of their number*,] agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge viaduct or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.[2]

Sect. 148. [*Power of urban authority to enter into agreements* . . .[3] *as to repair, etc., of roads.*]

Any urban authority may by agreement . . .[3] with any person liable to repair any street or road, or any part thereof, [*or with the surveyor of any county bridge*,] take on themselves the maintenance repair cleansing or watering of any such street or road or any part thereof, [*or of any road over any county bridge, and the approaches thereto*,] or of any part of the said streets or roads within their district . . .[3] on such terms as the urban authority and such . . . persons [*or surveyor*] as aforesaid may agree on : . . .[3]

Sect. 149. [*Vesting of streets, etc., in urban authority.*]

All streets, being or which at any time become highways repairable by the inhabitants at large within any urban district, and the pavements stones and other materials thereof, and all buildings implements and other things provided for the purposes thereof, shall vest in and be under the control of the urban authority.

The urban authority shall from time to time cause all such streets to be levelled paved metalled flagged channelled altered and repaired

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(1) Modification in Sched. I, Parts I and III, is omission of words in italics. See Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (2) and 85 (1); and Glen's P.H. at pp. 278, 279.

(2) Modification in Sched. I, Parts I and III, is omission of words in italics. See Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (3) and 85 (2), and Glen's P.H. at pp. 279–283.

(3) Modification in Sched. I, Part I, is omission of words in italics. See Note to s. 30 of Act of 1929, *ante*, p. 80 (4); and Glen's P.H. at pp. 283, 284. The words represented by dots referred to turnpike roads and trustees, and were repealed by the Statute Law Revision Act, 1898, the trusts of all turnpike roads having then expired.

as occasion may require; they may from time to time cause the soil of any such street to be raised lowered or altered as they may think fit, and may place and keep in repair fences and posts for the safety of foot passengers.

Any person who without the consent of the urban authority wilfully displaces or takes up or who injures the pavement stones materials fences or posts of or the trees in any such street shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding five shillings for every square foot of pavement stones or other materials so displaced taken up or injured; he shall also be liable in the case of any injury to trees to pay to the local authority such amount of compensation as the court may award.[1]

Sect. 154. [*Power to purchase premises for improvement of streets.*]

Any urban authority may purchase any premises for the purpose of widening opening enlarging or otherwise improving any [street,] or [(*with the sanction of the Local Government Board*)] for the purpose of making any new street.[2]

Sect. 155. [*Power to regulate line of buildings.*]

When any house or building situated in any street in an urban district, or the front thereof, has been taken down, in order to be rebuilt or altered, the urban authority may prescribe the line in which any house or building, or the front thereof, to be built or rebuilt in the same situation shall be erected, and such house or building, or the front thereof, shall be erected in accordance therewith.

The urban authority shall pay or tender compensation to the owner or other person immediately interested in such house or building for any loss or damage he may sustain in consequence of his house or building being set back or forward, the amount of such compensation, in case of dispute, to be settled by arbitration in manner provided by this Act.

Note.

LINE OF BUILDINGS.—*Sect.* 3 *of the Public Health* (*Buildings in Streets*) *Act*, 1888,[3] *which is to be "construed as one with" the present Act*,[4] *and in which, "unless the context otherwise requires, words and expressions to which meanings are assigned" by the present Act*,[5] *are to have "the same*

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(1) See, as to "vesting," Note to s. 29 of Act of 1929, *ante*, p. 76, and, for cases on above section, Glen's P.H. at pp. 285–311, and *Howard-Flanders* v. *Maldon Cpn.* (1926, C.A.), 135 L.T. 6; 90 J.P. 97; 24 L.G.R. 224.

(2) Modifications in Sched. I, Parts I and III, are: "as if the word 'street' included county roads and county bridges," and omission of words in italics. See Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (5) and 85 (3); and Glen's P.H. at pp. 358–363. See also next section and Note thereto, and s. 176 and modification thereof.

(3) 51 & 52 Vict. c. 52, s. 3. See numerous cases on this section in Glen's P.H. at pp. 366–372, and *Attorney-General* v. *Laird*, L.R. 1925, Ch. 318; 94 L.J. Ch. 243; 132 L.T. 777; 89 J.P. 95; 23 L.G.R. 273; *Attorney-General* v. *Denby*, L.R. 1925, Ch. 596; 94 L.J. Ch. 434; 133 L.T. 722; 89 J.P. 145; 23 L.G.R. 625.

(4) *Ibid.*, s. 1. As to effect of this provision, see Note to s. 84, *ante*, pp. 146, 147

(5) See s. 4, *ante*, p. 272.

respective meanings,"(1) *repealed section* 156 *of the present Act,*(2) *"save as hereinafter mentioned," and "in lieu thereof" enacted as follows:—"It shall not be lawful in any urban district, without the written consent of the urban authority, to erect or bring forward any house or building in any street, or any part of such house or building, beyond the front main wall of the house or building on either side thereof in the same street, nor to build any addition to any house or building beyond the front main wall of the house or building on either side of the same. Any person offending against this enactment shall be liable to a penalty not exceeding forty shillings for every day during which the offence is continued after written notice in this behalf from the urban authority. Provided that the repeal by this Act enacted shall not affect anything duly done or suffered, or any right or liability acquired, accrued, or incurred, or any security given under the section hereby repealed, or any penalty, forfeiture, or punishment incurred in respect of any offence committed against such section, or any investigation, legal proceeding, or remedy in respect of any such right, liability, security, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not been passed."*

Under sect. 66 *of the Towns Improvement Clauses Act,* 1847,(3) *the urban district council "may allow, upon such terms as they think fit, any building [within the district] to be set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated." Under sect.* 67 *of the same Act,*(4) *"the [council] may agree with the owners of any lands within the [district] for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall re-sell any parts of the lands so purchased which shall not be wanted for the enlargement of the street." Under sect.* 68,(5) *"when any house or building, any part of which projects beyond the regular line of the street, or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the [council] may require the same to set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, in such manner as the [council] direct, for the improvement of such street; provided always that the [council] shall make full compensation to the owner of any such house or building for any damage he thereby sustains." Under sect.* 69,(6) *the council "may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign-post, sign-iron, show-board, window-shutter, wall, gate or fence, or any other obstruction or projection erected or placed, after the passing of the special Act, against or in front of any house or building within the [district], and which is an obstruction to the safe and convenient passage along any street: And such occupier shall, within*

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(1) 51 & 52 Vict. c. 52, s.2.

(2) 38 & 39 Vict. c. 55, s. 156.

(3) 10 & 11 Vict. c. 34, s. 66. For Notes on this section and ss. 67–70 which follow, see Glen's P.H. at pp. 1621–1624. All these sections are incorporated in the Public Health Act, 1875, by s. 160 of that Act.

(4) *Ibid.*, s. 67.

(5) *Ibid.*, s. 68.

(6) *Ibid.*, s. 69.

fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the [*council*], *and in default thereof shall be liable to a penalty not exceeding forty shillings : And the* [*council*] *in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages : Provided always that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building." Under sect.* 70,[1] "*if any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the passing of the special Act, the* [*council*] *may cause the same to be removed or altered as they think fit : Provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be thirty days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.*"

See also sects. 4 *and* 5 *of the Roads Improvement Act,* 1925,[2] *and sects.* 33 *and* 34 *of the Public Health Act,* 1925.[3]

Sect. 157. [*Power to make bye-laws respecting new buildings, etc.*]

Every urban authority may make bye-laws with respect to the following matters; (that is to say,)

(1) With respect to the level, width and construction of new streets, and the provisions for the sewerage thereof :

(2) With respect to the structure of walls foundations roofs and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health :

(3) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings :

(4) With respect to the drainage of buildings,to water closets earth-closets privies ashpits and cesspools in connexion with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation :

And they may further provide for the observance of such bye-laws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove alter or pull down any work begun or done in contravention of such byelaws : Provided that no bye-law made under this section shall affect any building erected in any place (which at the time of the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board [now Minister of Health] subject to this enactment.

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(1) 10 & 11 Vict. c. 34, s. 70. (2) *Post,* pp. 341, 343. (3) *Post,* p. 357, 359.

The provisions of this section and of the two last preceding sections shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.[1]

PART V.

Sect. 173. [*Power of local authorities to contract.*]

Any local authority may enter into any contracts necessary for carrying this Act into execution.[2]

Sect. 174. [*Provisions* [*as*] *to contracts by urban authority.*]

With respect to contracts made by an urban authority under this Act, the following regulations shall be observed; (namely,)

(1) Every contract made by an urban authority whereof the value or amount exceeds fifty pounds shall be in writing and sealed with the common seal of such authority:

(2) Every such contract shall specify the work materials matters or things to be furnished had or done, the price to be paid, and the time or times within which the contract is to be performed, and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed:

(3) Before contracting for the execution of any works under the provisions of this Act, an urban authority shall obtain from their surveyor an estimate in writing, as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same; also a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair during a term of years or otherwise:

(4) Before any contract of the value or amount of one hundred pounds or upwards is entered into by anurban authority ten days public notice at the least shall be given, expressing the nature and purpose thereof and inviting tenders for the execution of the same; and such authority shall require and take sufficient security for the due performance of the same:

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(1) See Note to s. 30 of Act of 1929, *ante*, p. 78 (4); and P.H. Act, 1925, ss. 29–32, *post*, p. 354; and cases cited in Glen's P.H. at pp. 373–400. In *Andrews* v. *Carlton* (1928, 93 J.P. 65), a bona fide claim of right to do an act prohibited by a bye-law was held to oust the jurisdiction of the justices to convict.

(2) See Glen's P.H. at pp. 443–452; and, as to contracts being "ultra vires," *Southport Cpn.* v. *Birkdale Electric Co.* (C.A.), L.R. 1925, Ch. 794; 94 L.J. Ch. 371; 133 L.T. 354; 89 J.P. 149; 23 L.G.R. 490.

(5) Every contract entered into by an urban authority in conformity with the provisions of this section, and duly executed by the other parties thereto, shall be binding on the authority by whom the same is executed and their successors and on all other parties thereto and their executors administrators successors or assigns to all intents and purposes : Provided that an urban authority may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty is mentioned in any such contract, or in any bond or otherwise, for such sums of money or other recompense as to such authority may seem proper.[1]

Sect. 175. [*Power to purchase lands.*]

Any local authority may for the purposes and subject to the provisions of this Act purchase or take on lease sell or exchange any lands, whether situated within or without their district; they may also buy up any water-mill dam or weir which interferes with the proper drainage of or the supply of water to their district.

Any lands acquired by a local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired shall (unless the [Minister of Health] otherwise [directs]) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.[2]

Sect. 176. [*Regulations as to purchase of land.*]

With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed; (that is to say,)

(1) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section 127 of the Lands Clauses Consolidation Act, 1845 :[3]

(2) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall—Publish once at the least in each of three consecutive weeks in the month of November,

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(1) See Glen's P.H. at pp. 452–463; and, as to necessity for "sealing" contracts, *Nixon* v. *Erith U.D.C.* (C.A.), L.R. 1924, 1 K.B. 819; 93 L.J.K.B. 756; 131 L.T. 303; 88 J.P. 115; 22 L.G.R. 448.

(2) See Note to s. 9 of Act of 1929, *ante*, p. 46 (2); and Glen's P.H. at pp. 464–472. See also, as to surplus land, P.H. Act, 1907, s. 95, *post*, p. 317.

(3) 8 Vict. c. 18, s. 127, as to surplus land.

in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further— Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands :

(3) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the [Minister of Health]. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners lessees and occupiers of lands who have assented dissented or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the [Minister of Health] requires :

(4) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served the [Minister of Health] shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof :

(5) After the completion of such inquiry the [Minister of Health] may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the [Minister] may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served :

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given; and any notices or orders by this section required to be served on a number of persons having any right in over or on lands in common may be served on any three or more of such persons on behalf of all such persons.[1]

Sect. 177. [*Power to let lands.*]

Any local authority may, with the consent of the [Minister of Health], let for any term any lands which they may possess, as and when they can conveniently spare the same.[2]

Sect. 178. [*Provision for lands belonging to the Duchy of Lancaster.*]

The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit, (but subject and without prejudice to the rights of any lessee tenant or occupier,) from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to [His] Majesty [His] heirs or successors in right of the said duchy, or any right interest or easement in through over or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855,[3] the said Chancellor and Council may grant and assure to the said authority, under the seal of the said duchy, in the name of [His] Majesty [His] heirs or successors the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.[4]

Sect. 200. [*Power of urban authority to appoint committees.*][5]

PART VI.

Sect. 207. [*Mode of defraying expenses of urban authority.*]

All expenses incurred or payable by an urban authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the district fund and general district rate leviable by them under this Act, subject to the following exceptions; (namely,)

That if in any district the expenses incurred by an urban authority (being the council of a borough) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of the borough fund or borough rate, then the expenses incurred by that authority in

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(1) Modification in Sched. I, Parts I and III, is: "so far as required for highway purposes and the purposes of s. 154." See Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (6) and 85 (4); and Glen's P.H. at pp. 472–481, and, for Lands Clauses Acts, *ibid.* at pp. 1565–1600, and, for Acquisition of Lands Act of 1919, *ibid.* at pp. 2334–2338.

(2) See Note to s. 9 of Act of 1929, *ante*, p. 46 (2); and Glen's P.H. at pp. 481, 482.

(3) 18 and 19 Vict. c. 58.

(4) See Note to s. 9 of Act of 1929, *ante*, p. 46 (2); and Glen's P.H. at p. 482. This section, and ss. 176 and 177, are applied by L.G. Act, 1888, s. 65 (2), *post*, p. 292.

(5) Set out in Note to s. 14 of Act of 1929, *ante*, p. 55 (7).

the execution of this Act shall be charged on and defrayed out of the borough fund or borough rate; and

That if in any district the expenses incurred by an urban authority (being improvement commissioners) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of any rate in the nature of a general district rate leviable by them as such commissioners throughout the whole of their district, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of such rate; and for the purposes of this section the council of the borough of Folkestone shall be deemed to be improvement commissioners; and

That where at the time of the passing of this Act the expenses incurred by an urban authority in the execution of certain purposes of the Sanitary Acts were payable out of the borough fund and borough rate, and the expenses incurred by such authority in the execution of the other purposes of the said Acts were payable out of a rate or rates leviable by that authority throughout the whole of their district for paving sewering or other sanitary purposes, then the expenses incurred by that authority in the execution of the same or similar purposes respectively under this Act shall respectively be charged on and defrayed out of the borough fund and borough rate, and out of the rate or rates leviable as aforesaid.[1]

Sect. 210. [*Making general district rate.*]

For the purpose of defraying any expenses chargeable on the district fund which that fund is insufficient to meet, the urban authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other rate leviable by them under this Act, a rate or rates to be called "general district rates." . . .[2]

Sect. 213. [*Power to make private improvement rates.*]

Whenever an urban authority have incurred or become liable to any expenses which by this Act are or by such authority may be declared to be private improvement expenses, such authority may, if they think fit, make and levy on the occupier of the premises in respect of which the expenses have been incurred, in addition to all other rates, a rate or rates to be called private improvement rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding five pounds per centum per annum, in such period not exceeding thirty years as the urban authority may in each case determine.

Provided that whenever any premises in respect of which any private improvement rate is made become unoccupied before the expiration of

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(1) The present section is applied by many enactments, see e.g., P.S.W. Act, 1892, s. 23, *post*, p. 307. It is fully annotated in Glen's P.H. at pp. 561–565.

(2) Remainder of section repealed by R. & V. Act, 1925. For cases on section, see Glen's P.H. at pp. 568–577.

the period for which the rate was made, or before the same is fully paid off, such rate shall become a charge on and be paid by the owner for the time being of the premises so long as the same continue to be unoccupied.[1]

Sect. 229. [*Expenses of rural authority.*]

The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the [Minister of Health] to be special expenses.

Special expenses shall be the expenses of the construction maintenance and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the [Minister of Health] to be special expenses.

* * * *[2]

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

(1) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and

(2) Every such special drainage district as aforesaid; and

(3) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district; and

(4) In the case of a parish a part of which is situated within an urban

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[1] The present section is applied by many enactments, see, e.g., P.S.W. Act, 1892, s. 12 (1), *post*, p. 303. It is annotated in Glen's P.H. at pp. 594, 595.

[2] Repealed by s. 137 and Sched. XII, Part IV, of Act of 1929, *ante*, p. 217.

district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid.[1]

Sect. 233. [*Power* [*to*] *borrow on credit of rates*.]

Any local authority may, with the sanction of the [Minister of Health], for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs charges and expenses, or for discharging any such loans as aforesaid.

An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund rate or rates.[2]

Sect. 234. [*Regulations as to exercise of borrowing powers*.]

The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations; (namely,)

(1) Money shall not be borrowed except for permanent works, (including under this expression any works of which the cost ought in the opinion of the [Minister of Health] to be spread over a term of years):

* * * *[3]

(4) The money may be borrowed for such time, not exceeding [sixty[4]] years, as the local authority, with the sanction of the [Minister of Health], determine in each case; and, subject as aforesaid, the local authority shall either pay off the money so borrowed by equal annual instalments of principal or of principal and interest, or they shall in

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(1) See Note to s. 56 of Act of 1929, *ante*, p. 116; and Glen's P.H. at pp. 606–608.

(2) The present and the next sections are applied by many enactments, see, e.g., P.S.W. Act, 1892, s. 18, *post*, p. 305. They are annotated in Glen's P.H. at pp. 613–624. As to application of s. 233 in rural districts, see "adaptation" in Sched. X, 9, of Act of 1929, *ante*.

(3) See s. 74 of Act of 1929 and Note, *ante*, p. 137.

(4) Extended to eighty for housing loans; see Housing Act, 1925 (15 & 16 Geo. V, c. 14), s. 89 (2) (*b*).

every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned :

(5) A local authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied :

(6) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the [Minister of Health], and shall in no case be extended beyond the period of [sixty[1]] years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.[2]

PART VII.

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Sect. 257. [*Recovery of expenses by local authority from owners.*]

Where any local authority have incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable under this Act or by any agreement with the local authority, such expenses may be recovered, together with interest at a rate not exceeding five pounds per centum per annum, from the date of service of a demand for the same till payment thereof, from any person who is the owner of such premises when the works are completed for which such expenses have been incurred, and until recovery of such expenses and interest the same shall be a charge on the premises in respect of which they were incurred. In all summary proceedings by a local authority for the recovery of expenses incurred by them in works of private improvement, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

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(1) Extended to eighty for housing loans; see Housing Act, 1925 (15 & 16 Geo. V c. 14), s. 89 (2) (*b*).

(2) See s. 74 of Act of 1929 and Note, *ante*, p. 137; and Glen's P.H. at pp. 616–624.

Where such expenses have been settled and apportioned by the surveyor of the local authority as payable by such owner, such apportionment shall be binding and conclusive on such owner, unless within three months from service of notice on him by the local authority or their surveyor of the amount settled by the surveyor to be due from such owner, he shall by written notice dispute the same.

The local authority may, by order, declare any such expenses to be payable by annual instalments within a period not exceeding thirty years, with interest at a rate not exceeding five pounds per centum per annum, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered in a summary manner from the owner or occupier for the time being of such premises, and may be deducted from the rent of such premises, in the same proportions as are allowed in the case of private improvement rates under this Act.[1]

Sect. 268. [*Appeal in certain cases to* [*Minister of Health*].]

Where any person deems himself aggrieved by the decision of the local authority in any case in which the local authority are empowered to recover in a summary manner any expenses incurred by them, or to declare such expenses to be private improvement expenses, he may, within twenty-one days after notice of such decision, address a memorial to the [Minister of Health], stating the grounds of his complaint, and shall deliver a copy thereof to the local authority; the [Minister of Health] may make such order in the matter as to the said [Minister] may seem equitable, and the order so made shall be binding and conclusive on all parties.

Any proceedings that may have been commenced for the recovery of such expenses by the local authority shall, on the delivery to them of such copy as aforesaid, be stayed; and the [Minister of Health] may, if [he] thinks fit, by [his] order, direct the local authority to pay to the person so proceeded against such sum as the said [Minister] may consider to be a just compensation for the loss damage or grievance thereby sustained by him.[2]

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(1) The present section is applied by many enactments, see, e.g., P.S.W. Act, 1892, s. 13 (1), *post*, p. 304. It is fully annotated in Glen's P.H. at pp. 674-692. For more recent cases on it, see *Sunderland Cpn.* v. *Gray* (as to failure to serve on all frontagers notices *re* private street works), 1926, 136 L.T. 405; 91 J.P. 52; 25 L.G.R. 139; *Sunderland Cpn.* v. *Priestman* (as to time for enforcing charge), L.R. 1927, 2 Ch. 107; 96 L.J. Ch. 441; 137 L.T. 688; 26 L.G.R. 64; *Friern Barnet U.D.C.* v. *Adams* (as to enforcing charge against "unknown owners"), L.R. 1927, 2 Ch. 25; 96 L.J. Ch. 145; 136 L.T. 649; 91 J.P. 60; 25 L.G.R. 75; *Calder's Yeast Co.* v. *Stockdale* (as to charges as between vendor and purchaser), L.R. 1928, Ch. 340; 96 L.J. Ch. 357; 136 L.T. 458; 91 J.P. 57; 25 L.G.R. 354; and, as to the charge being one on the "whole of the proprietary interests" in the premises, see *Paddington B.C.* v. *Finucane*, L.R. 1928, Ch. 567; 97 L.J. Ch. 219; 92 J.P. 68; 26 L.G.R. 283; and *Bristol Cpn.* v. *Virgin*, 1928, 97 L.J. K.B. 522; 26 L.G.R. 443; and, as to its being based on the whole of the abutting land, see *Altrincham U.D.C.* v. *O'Brien*, 1927, 91 J.P. 149; 25 L.G.R. 369.

(2) See Note to s. 30 of Act of 1929, *ante*, p. 81 (8); and Glen's P.H. at pp. 712, 713, and *Rex* (*Aldridge*) v. *Minister of Health*, *post*, p. 303 (1). The appeal does not lie until after the local authority have executed the works and decided to recover the expenses, see *Reg.* (*Penarth Local Board*) v. *Local Government Board*, 1882, L.R. 10 Q.B.D. 309; 52 L.J.M.C. 4; 48 L.T. 173; 47 J.P. 228; *Rex* (*Thorp*) v. *Local Government Board*, 1914, 84 L.J.K.B. 1184; 112 L.T. 860; 79 J.P. 248; 13 L.G.R. 402.

PART IX.

Sects. 293–296. [*Inquiries by Minister of Health*].[1]

Sect. 308. [*Compensation in case of damage by local authority.*]

Where any person sustains any damage by reason of the exercise of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the local authority exercising such powers; and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by this Act, or if the compensation claimed does not exceed the sum of twenty pounds, the same may at the option of either party be ascertained by and recovered before a court of summary jurisdiction.[2]

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THE LOCAL GOVERNMENT ACT, 1888.

Sect. 11. [*Entire maintenance of main roads by county council.*]

(1) Every road in a county, which is for the time being a main road within the meaning of the Highways and Locomotives (Amendment) Act, 1878,[3] inclusive of every bridge carrying such road if repairable by the highway authority, shall [*after the appointed day*] be wholly maintained and repaired by the council of the county in which the road is situate, and such council, for the purpose of the maintenance, repair, improvement, and enlargement of, and other dealing with such road, shall have the same powers and be subject to the same duties as a highway board, and may further exercise any powers vested in the council for the purpose of the maintenance and repair of bridges, and the enactments relating to highways and bridges shall apply accordingly; and the county council shall have the same powers as a highway board for preventing and removing obstructions, and for asserting the right of the public to the use and enjoyment of the roadside wastes; and the execution of this section shall be a general county purpose, and the costs thereof shall be charged to the general county account.

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(1) Set out at end of Note to s. 129 of Act of 1929, *ante*, p. 204.

(2) Applied by s. 39 (1) of Act of 1929, *ante*, p. 101. It is fully annotated in Glen's P.H. at pp. 752–778.

(3) As to main roads, now called "county roads," see s. 29 of Act of 1929 and Note, *ante*, p. 74.

(4) Subsects. (2)–(6) and (8) are repealed by the Act of 1929 (see s. 137 and Note), and subsects. (7) and (9) have been set out, *ante*. p, 99. For the repealed subsections, and full Notes on the section, see Glen's P.H. at pp. 1894–1903.

(10) The county council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road.[1]

(11) Every authority having any power or duty to light the roads in their district shall have the same power and duty to light any main road in their district.

(12) Anything authorised or required by law to be done by or to a highway or road authority shall, as respects a main road maintained by a county council, be authorised or required to be done by or to that council; and every authority having any power to break up any road in their district for the purpose of sewerage or otherwise shall have the like power of breaking up any main road in their district, but if the road is broken up the authority shall repair it to the satisfaction of the county council maintaining such road, and if it is not repaired to the satisfaction of the county council, that council may cause the necessary repairs to be done and may charge the costs against the authority, and the same shall be a debt due from the authority to the council.

(13) Sect. 20 of the Highways and Locomotives (Amendment) Act, 1878, shall apply as if it were herein re-enacted and in terms made applicable to this section.

Note.

REPAIR OF MAIN ROADS.—*By sect.* 20 *of the Act of* 1878,[2] "*Notwithstanding the provisions of this Act, in the case of any county in which certain of the bridges within the county are repairable by the county at large, and others are repairable by the several hundreds within the county in which they are situate, it shall be lawful for the county authority from time to time, by order, to declare any main road or part of a main road within their county to be repairable to the extent only and in manner provided by sect.* 13 *of this Act either by the county or by the hundred in which such main road or part is situate, as they think fit ; and where a main road or part thereof is declared to be repairable by a hundred, the expense of repairing the same shall, to the extent to which but for this section the expenses of any contribution towards the expense of repairing the same would be repayable out of the county rate, be repayable out of a separate rate which shall be raised and charged in the like manner as the expenses of repairing the hundred bridges in the same hundred would have been raised and charged.*"

By sect. 13 *of the Act of* 1878,[3] "*for the purposes of this Act, and subject to its provisions, any road which has, within the period between the thirty-first day of December* 1870 *and the date of the passing of this Act, ceased to be a turnpike road, and any road which, being at the time of the*

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[1] See L.G. Act, 1894, s. 25 (3), *post*, p. 308.
[2] 41 & 42 Vict. c. 77, s. 20. See Notes in Glen's P.H. at p. 1774.
[3] *Ibid.*, s. 13. See Note in Glen's P.H. at pp. 1771, 1772.

passing of this Act a turnpike road, may afterwards cease to be such, shall be deemed to be a main road . . . "[1]

The expression "main road" is defined by sect. 100 *of the Local Government Act,* 1888,[2] *as meaning, when used with reference to the district of any highway or road authority, "so much of the main road as is situate within the district of such authority." It had been held that sect.* 13 *did not apply to part of a road.*[3]

Sects. 54 and 57. [*See Act of* 1929, *s.* 48, *and Note.*]

Sect. 59. [*Supplemental provisions as to alteration of areas.*]

(1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.

(2) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other; Provided that (*a*) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing of this Act; and (*b*) This enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and (*c*) This enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of parliamentary elections shall, save as otherwise provided by the scheme or order, or by [*the County Electors Act*, 1888, *or*[4]] this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

(4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or

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(1) Repealed by S.L.R. Act, 1894.
(2) 51 & 52 Vict. c. 41, s. 100.
(3) *Lancashire JJ.* v. *Rochdale Cpn.* (1883, H.L.), L.R. 8 A.C. 494; 53 L.J.M.C. 5; 49 L.T. 368; 48 J.P. 20.
(4) 51 & 52 Vict. c. 10, repealed by R.P. Act, 1918 (7 & 8 Geo. V, c. 64), s. 47, Sched. VIII, which Act contains other provisions as to the registration of both county and local government electors, see Glen's P.H. at pp. 2282–2298.

order, provide for all or any of the following matters, that is to say—(*a*) May provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area; and (*b*) May make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and (*c*) May provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and (*d*) May provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and (*e*) May adjust any property, debts, and liabilities affected by the scheme or order.

(5) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the [Minister of Health] desirable, be made by that [Minister], but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.[1]

Sect. 62. [*Adjustment of property and liabilities.*]

(1) Any councils and other authorities affected by this Act or by any scheme, order, or other thing made or done in pursuance of this

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(1) This section, and s. 62, are applied by s. 66 of Act of 1929, *ante*, p. 125. For Notes on these two sections, see Glen's P.H. at pp. 1935–1938, and 1939–1942.

Act, may from time to time make agreements for the purpose of adjusting any property, income, debts, liabilities, and expenses, so far as affected by this Act or such scheme, order, or thing, of the parties to the agreement, and the agreement and any other agreement authorised by this Act to be made for the purpose of the adjustment of any property, debts, liabilities, or financial relations, may provide for the transfer or retention of any property, debts, and liabilities, with or without any conditions, and for the joint use of any property, and for the transfer of any duties, and for payment by either party to the agreement in respect of property, debts, duties, and liabilities so transferred or retained, or of such joint user, and in respect of the salary, remuneration, or compensation payable to any officer or person, and that either by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Commissioners under this Act or the [Minister of Health].

(2) In default of an agreement as to any matter requiring adjustment for the purpose of this Act, or any matter which, in case of difference, is to be referred to arbitration, then, if no other mode of making such adjustment or determining such difference is provided by this Act, such adjustment or difference may be made or determined by an arbitrator appointed by the parties, or in case of difference as to the appointment, appointed by the [Minister of Health].

(3) An arbitrator appointed under this Act shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator may state a special case, and notwithstanding anything in the said Acts, shall determine the amount of the costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(4) Any award or order made by the Commissioners or any arbitrator under this Act may provide for any matter for which an agreement might have provided.

(5) Any sum required to be paid for the purpose of adjustment, or of any award or order made by the Commissioners, or an arbitrator under this Act, may be paid out of the county or borough fund or out of such other special fund as the council, with the approval of the Commissioners under this Act or of the [Minister of Health], may direct.

(6) The payment of any capital sum required to be paid for the purposes of the adjustment or of an agreement under this Act, or of any award or order made upon any arbitration under this Act, shall be a purpose for which a council may borrow under this Act, or in the case of a borough council, under the Municipal Corporations Act,

1882, or any local Act, and such sum may be borrowed on the security of all or any of the funds, rates, and revenues of the council, and either by the creation of stock or in any other manner in which they are for the time being authorised to borrow, and such sum may be borrowed without the consent of the Treasury or any other authority, so that it be repaid within such period as the [Minister of Health] may sanction, by such method as is mentioned in Part IV. of this Act for paying off a loan, or, if the sum is raised by stock under a local Act, by such method as is directed by that Act.

(7) Any capital sum paid to any council for the purpose of any adjustment, or in pursuance of any order or award of an arbitrator under this Act shall be treated as capital, and applied, with the sanction of the [Minister of Health], either in the repayment of debt or for any other purpose for which capital money may be applied.[1]

Sect. 64. [*Transfer of county property and liabilities.*]

(1) and (2). [Quarter Sessions, etc.]

(3) The county council shall have full power to manage, alter, and enlarge, and, with the consent of the [Minister of Health], to alienate any land or buildings transferred by this section, or otherwise vested in the council, but shall provide such accommodation and rooms, and such furniture, books, and other things as may from time to time be determined by the standing joint committee of quarter sessions and the county council, to be necessary or proper for the due transaction of the business, and convenient keeping of the records and documents, of the quarter sessions and justices out of sessions, or of any committee of such quarter sessions or justices.[2]

(4) to (6). [Sussex, York, etc.]

Sect. 65. [*Power to acquire lands.*]

(1) A county council may, from time to time, for the purpose of any of their powers and duties, including those which are to be executed through the standing joint committee, acquire, purchase, or take on lease, or exchange any lands or any easements or rights over or in land, whether situate within or without the county, and may acquire, hire, erect, and furnish such halls, buildings, and offices as they may from time to time require, whether within or without their county.

(2) For the purpose of the purchase, taking on lease, or exchange of such lands, sects. 176, 177, and 178 of the Public Health Act, 1875,[3] shall apply as if they were herein re-enacted, and in terms made applicable to the county council.

(3) Where the county council, with the consent of the [Minister of Health], sell any land, the proceeds of such sale shall be applied in

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(1) See footnote (1), *ante*, p. 290.

(2) See s. 9 of Act of 1929, *ante*, p. 46.

(3) Set out, *ante*, p. 279 *et seq.*

such manner as the said [Minister sanctions] towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.[1]

Sect. 68. [*Funds of county council.*]

(1) All receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all payments for general or special county purposes shall be made in the first instance out of that fund.

(2) In this Act the expression "general county purposes" means all purposes declared by this or any other Act to be general county purposes, and all purposes for contributions to which the county council are for the time being authorised by law to assess the whole area of their administrative county, and the expression "general county account" means the account of the county fund to which the contributions so raised are carried, and any costs incurred for a general county purpose shall be general expenses, and all costs incurred by the county council in the execution of their duties which are not by law made special expenses shall be general expenses.[2]

(3) In this Act the expression "special county purposes" means any purposes from contribution to which any portion of the county is for the time being exempt, and also includes any purposes where the expenditure involved is by law restricted to a hundred, division, or other limited part of the county, and the expression "special county account" means any account of the county fund to which contributions for special county purposes are carried, and any costs incurred for a special county purpose shall be special expenses.

(4) If the moneys standing to the general county account of the county funds are insufficient to meet the expenditure for general county purposes, county contributions may be levied to meet the deficiency on the whole administrative county, and shall be assessed on all the parishes in the county.

(5) If the moneys standing to any special county account of the county fund are insufficient to meet the expenditure for the special county purposes chargeable to that account, county contributions may be levied to meet the deficiency on any parishes in the county liable to be assessed to the county contributions for those purposes.

(6) Any precept for county contributions may include as separate items a contribution for general county purposes, and a contribution for any special county purpose or purposes, and subject as in this or any other Act mentioned, county contributions, whether for general or special county purposes, which are liable to be assessed on the parishes, shall be assessed on such parishes in proportion to the annual value thereof, as determined by the standard or basis for the county rate, and all enactments

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(1) See s. 9 of Act of 1929, *ante*, p. 46.
(2) See s. 128 (1) (*a*) of Act of 1929, *ante*, p. 200.

applying to such standard or basis or to county rate shall (save as altered by this Act) apply so far as may be, consistently with the tenor thereof, to county contributions, and those enactments shall extend to all parishes within any borough which are liable under this Act to be assessed to county contributions.

(7) The county council shall keep such accounts as will prevent the whole administrative county from being charged with expenditure properly payable by a portion only of the county, and will prevent any sums raised in a portion only of the county being applied in reduction of expenditure properly payable by the whole or a larger part of the county, and will further secure any such exemption as above in this section mentioned, and will prevent any sums by law specifically applicable to any particular purpose from being applied to any other purpose.

(8) In determining the amount of expenditure for any particular county purpose, general or special, a proper proportion of the cost of the officers and buildings and establishment of the county council may be added to the expenditure directly expended for that purpose.

(9) County contributions may be made retrospective in order to raise money for the payment of costs incurred, or having become payable at any time within six months before the demand of the contributions.[1]

Sect. 69. [*Borrowing by county council.*]

(1) The county council may from time to time, with the consent of the [Minister of Health], borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them, that is to say;[2]

(*a*) for consolidating the debts of the county; and

(*b*) for purchasing any land or building any building, which the council are authorised by any Act to purchase or build; and

(*c*) for any permanent work or other thing which the county council are authorised to execute or do, and the cost of which ought in the opinion of the [Minister of Health] to be spread over a term of years; and

(*d*) for making advances (which they are hereby authorised to make) to any persons or bodies of persons, corporate or unincorporate, in aid of the emigration or colonisation of inhabitants of the county, with a guarantee for repayment of such advances from any local authority in the county, or the Government of any colony; and

(*e*) for any purpose for which quarter sessions or the county council are authorised by any Act to borrow,

but neither the transfer of powers by this Act nor anything else in this

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(1) Contributions to the county fund are levied by the issue of precepts to the rating authority, see Rating and Valuation Act, 1925 (15 & 16 Geo. V, c. 90), s. 9.

(2) The present section is applied by s. 128 (3) (*a*) of Act of 1929, *ante*, p. 201.

Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the [Minister of Health], before giving [his] consent, shall take into consideration any representation made by any ratepayer or owner of property rated to the county fund.

* * * *[1]

(3) A county council may also from time to time, without any consent of the [Minister of Health], during the period which was fixed for the discharge of any loan raised by them under this Act or transferred to them by this Act, borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan, or if any part of such loan has been repaid otherwise than by capital money for reborrowing the amount so repaid, and for the purpose of this section, "capital money" includes any instalments, annual appropriations, and sinking fund and the proceeds of the sale of land or other property, but does not include money previously borrowed for the purpose of repaying a loan.

(4) All money reborrowed shall be repaid within the period fixed for the discharge of the original loan, and every loan for reborrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan, and the obligations of the council with respect to the discharge of the original loan shall not be in any way affected by means of the reborrowing.

(5) A loan under this section shall be repaid within such period, not exceeding [sixty] years, as the county council, with the consent of the [Minister of Health] determine in each case.

(6) The county council shall pay off every loan either by equal yearly or half-yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund set apart, invested, and applied in accordance with the Local Loans Act, 1875, and the Acts amending the same.

(7) Where a loan is raised for any special county purpose, the council shall take care that the sums payable in respect of the loan are charged to the special account to which the expenditure for that purpose is chargeable.

(8) Where the county council are authorised to borrow any money on loan they may raise such money either as one loan or several loans, and either by stock issued under this Act, or by debentures, or annuity certificates under the Local Loans Act, 1875, and the Acts amending the same, or, [*if special reasons exist for so borrowing*,] by mortgage, in accordance with sections 236 and 237 of the Public Health Act, 1875.

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(1) Subsect. (2) imposed a limitation by reference to the rateable value of property in the county, which has now gone, see s. 74 of the Act of 1929, *ante*, p. 137. It is accordingly repealed by s. 137 of that Act.

(9) [*Provided that where a county council have borrowed by means of stock they shall not borrow by way of mortgage except for a period not exceeding five years.*]

(10) Where the county council borrow by debentures such debentures may be for any amount not less than five pounds.

(11) The provisions of this section which authorise advances in aid of the emigration or colonisation of inhabitants of the county, and the borrowing for those advances, except the provisions respecting the total debt, shall extend to the councils of boroughs mentioned in Schedule III. to this Act.

(12) Nothing in this section shall be taken to empower the Cheshire County Council to borrow on the security of any revenue estimated to accrue from the surplus funds of the River Weaver Navigation.

Note.

LOANS.—*As to subsect.* (5) *of the present section, by sect.* 112 (1) *of the Municipal Corporations Act,* 1882,[1] "*where the Treasury approve a mortgage or charge under this Part they may, as a condition of their approval, require that the money borrowed on the security or the mortgage or charge be repaid, with all interest thereon, in* [*sixty*] *years, or any less period, and either by instalments or by means of a sinking fund, or both.*"

The number of years specified in subsect. (5) *of the present section, and s.* 112 (1) *of the Act of* 1882, *was raised from* 30 *to* 60 *by s.* 53 (1) *of the Act of* 1929.[2] *The words in italics in subsects.* (8) *and* (9) *of the present section were repealed by the County Councils Mortgages Act,* 1909,[3] *which provides that subsect.* (9) "*shall, as respects any money borrowed by way of mortgage before the passing of this Act,*[4] *be deemed not to have been in force.*" *The section is also amended with regard to borrowing for educational purposes by sect.* 132 (1) *of the Education Act,* 1921,[5] *and with regard to borrowing under the Mental Deficiency Act,* 1913, *by sect.* 33 *of that Act.*[6]

Sect. 71. [*Audit of accounts of county council.*]

(1) The accounts of the receipts and expenditure of county councils shall be made up to the end of each local financial year as defined by this Act, and be in the form for the time being prescribed by the [Minister of Health].[7]

(2) The provisions of the Municipal Corporations Act, 1882,[8] with respect to the return to the [Minister of Health] of the accounts of a council of a borough and to the accounts of the treasurer of the borough, and to the inspection and abstract thereof shall apply

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(1) 45 & 46 Vict. c. 50, s. 112 (1).

(2) *Ante*, p. 114.

(3) 9 Edw. VII, c. 38, s. 1.

(4) *I.e.*, November 25th, 1909.

(5) 11 & 12 Geo. V, c. 51, s. 132 (1).

(6) 3 & 4 Geo. V, c. 28, s. 33.

(7) See s. 17 of Act of 1929. *ante*, p. 59.

(8) 45 & 46 Vict. c. 50, s. 28. See Glen's P.H. at p. 1810. See also s. 51 of Act of 1929, *ante*, p. 113.

to the accounts of a county council, and of the treasurer and officers of such council, and the said provisions respecting the return to the [Minister of Health] shall extend to the return to that [Minister] of a printed copy of the abstract of the said accounts.

(3) The accounts of a county council and of the county treasurer and officers of such council shall be audited by the district auditors appointed by the [Minister of Health] in like manner as accounts of an urban authority and their officers under sections 247 and 250 of the Public Health Act, 1875,[1] and those sections and all enactments amending them or applying to audit by district auditors, including the enactments imposing penalties and providing for the recovery of sums, shall apply in like manner as if, so far as they relate to an audit of the accounts of an urban authority and the officers of such authority, they were herein re-enacted with the necessary modifications, and accordingly all ratepayers and owners of property in the county shall have the like rights, and there shall be the same appeal as in the case of such audit. Provided that the First Schedule to the District Auditors Act, 1879, shall be modified in manner described in the Second Schedule to this Act.[2]

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890.

PART I.

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Sect. 7. [*Appeals to quarter sessions.*]

(1) Any person aggrieved—(*a*) By any order, judgment, determination, or requirement of a local authority under this Act; (*b*) By the withholding of any order, certificate, licence, consent, or approval, which may be made, granted, or given by a local authority under this Act; (*c*) By any conviction or order of a court of summary jurisdiction under any provision of this Act; may appeal in manner provided by the Summary Jurisdiction Acts to a court of quarter sessions.

(2) This section shall not apply in cases where there is an appeal to the [Minister of Health] under sect. 268 of the Public Health Act, 1875.

Note.

APPEALS.—*With regard to appeals to quarter sessions, see sect.* 269 *of the Public Health Act,* 1875;[3] *sect.* 268 *of the Act of* 1875 *has been set out*;[4] *see also sect.* 7 *of the Public Health Act of* 1907;[5] *and sect.* 8 *of the Public Health Act,* 1925.[6]

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(1) 38 & 39 Vict. c. 55, ss. 247, 250. See Glen's P.H. at pp. 634–645 and 648.

(2) 42 Vict. c. 6. See Glen's P.H. at pp. 1797–1801.

(3) 38 & 39 Vict. c. 55, s. 269. For cases, see Glen's P.H. at pp. 713–719.

(4) *Ante*, p. 286. (5) *Post*, p. 314. (6) *Post*, p. 349.

PART III.

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Sect. 39. [*Refuges, etc., in streets.*]

An urban authority may from time to time place, maintain, alter, and remove in any street, being a highway repairable by the inhabitants at large, such raised paving or places of refuge, with such pillars, rails, or other fences, either permanent or temporary, as they may think fit, for the purpose of protecting passengers and traffic, either along the street or on the footways, from injury, danger, or annoyance, or for the purpose of making the crossing of any street less dangerous to passengers.[1]

Sect. 40. [*Cabmen's shelters.*]

(1) An urban authority may from time to time provide, maintain, and remove in or near any street in their district suitable erections for the use, convenience, and shelter of drivers of hackney carriages, and such other persons as the urban authority may permit to use the same.

(2) The urban authority may from time to time make regulations for prescribing the terms and conditions and the fees (if any) to be charged for the use of such places of shelter, and may make bye-laws for regulating the conduct of persons using the same.[2]

Sect. 43. [*Trees in roads.*]

Any urban authority may, if they see fit, cause trees to be planted in any highway repairable by the inhabitants at large within their district, and may erect guards or fences for the protection of the same, provided that this power shall not be exercised nor shall any trees so planted be continued so as to hinder the reasonable use of the highway by the public or any person entitled to use the same, or so as to become a nuisance or injurious to any adjacent owner or occupier.[3]

Note.

TREES.—*With regard to injuries to trees growing in streets, see sect.* 149 *of the Public Health Act*, 1875.[4]

Under the present section a local authority planted trees along a highway, and for the purpose of stopping boys from climbing up into the trees fenced them with iron guards, the tops of which projected outwards in spikes. They were held liable in damages to a passer-by whose eye was injured by one of the spikes.[5]

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(1) Applied by Sched. I, Parts II and V, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 81 (1) and 85 (12).

(2) Applied by Sched. I, Parts II and V, see Notes to ss. 30 and 31 of Act of 1929, *ante*, p. 81 (2) and 85 (13).

(3) Applied by Sched. I, Parts II and V. See Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 81 (3) and 85 (14). See also R.I. Act, 1925, ss. 1 and 2, *post*, p. 332.

(4) Set out *ante*, p. 274.

(5) *Morrison* v. *Sheffield Cpn.*, L.R. 1917, 2 K.B. 866; 86 L.J.K.B. 1456; 117 L.T. 520; 81 J.P. 277; 15 L.G.R. 667.

THE PRIVATE STREET WORKS ACT, 1892.

Note.

APPLICATION OF ACT.—*The present Act is applied, to the exclusion of sect.* 150 *of the Public Health Act,* 1875,[1] *by Sched. I, Part I, of the Act of* 1929. *See the Note to sect.* 30 *of the Act of* 1929,[2] *and the modification to sect.* 6 (2), *infra. For full Notes on the Act, see the works mentioned below.*[3]

Sect. 1. [*Short title, construction, and extent.*]

This Act may be cited as the Private Street Works Act, 1892, and shall be construed as one with the Public Health Acts, and shall extend only to England; and this Act and the Public Health Acts may be cited together as the Public Health Acts.

Sect. 2. [*Adoption of Act.*]

Sect. 3. [*Adoption of Act by urban authorities.*]

Sect. 4. [[*Minister of Health*] *may extend Act to rural districts.*]

Sect. 5. [*Interpretation.*]

In this Act, if not inconsistent with the context . . .[4]

The expressions "surveyor," "lands," "premises," "owner," "drain," "sewer," have respectively the same meaning as in the Public Health Acts.[5]

The expression "street" means (unless the context otherwise requires) a street as defined by the Public Health Acts, and not being a highway repairable by the inhabitants at large.[5]

Words referring to "paving, metalling, and flagging" shall be construed as including macadamising, asphalting, gravelling, kerbing, and every method of making a carriageway or footway.

Sect. 6. [*Private street works.*]

(1) Where any street or part of a street is not sewered, levelled, paved, metalled, flagged, channelled, made good, and lighted to the satisfaction of the urban authority, the urban authority may from time to time resolve with respect to such street or part of a street to do any one or more of the following works (in this Act called private street works); that is to say, to sewer, level, pave, metal, flag, channel, or make good, or to provide proper means for lighting such street or part of a street; and the expenses incurred by the urban authority in executing private street works shall be apportioned (subject as in this Act mentioned) on the premises fronting, adjoining, or abutting on such

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(1) 38 & 39 Vict. c. 55, s. 150.

(2) *Ante*, p. 80 (7).

(3) "Glen's Public Health," 1925 Edition, at pp. 336-355. Davey's "Private Street Works," 1927 Edition. Subsequent cases are noted below.

(4) Definitions of "urban authority," "urban sanitary district," "rural sanitary district," and "district."

(5) See Act of 1875, s. 4, *ante*, p. 272.

street or part of a street. Any such resolution may include several streets or parts of streets, or may be limited to any part or parts of a street.

(2) The surveyor shall prepare, as respects each street or part of a street—

(*a*) A specification of the private street works referred to in the resolution, with plans and sections (if applicable);[1]

(*b*) An estimate of the probable expenses of the works;

(*c*) A provisional apportionment of the estimated expenses among the premises liable to be charged therewith under this Act.

Such specification, plans, sections, estimate, and provisional apportionment shall comprise the particulars prescribed in Part I of the Schedule to this Act, and shall be submitted to the urban authority, who may by resolution approve the same respectively with or without modification or addition as they think fit.

(3) The resolution approving the specifications, plans, and sections (if any), estimates, and provisional apportionments, shall be published in the manner prescribed in Part II of the Schedule to this Act, and copies thereof shall be served on the owners of the premises shown as liable to be charged in the provisional apportionment within seven days after the date of the first publication. During one month from the date of the first publication the approved specifications, plans, and sections (if any), estimates, and provisional apportionments (or copies thereof certified by the surveyor), shall be kept deposited at the urban authority offices, and shall be open to inspection at all reasonable times.

Note.

PARTICULARS.—*The particulars prescribed in Part I of the Schedule are:* "SPECIFICATIONS.—*These shall describe generally the works and things to be done, and in the case of structural works shall specify as far as may be the foundation, form, material, and dimensions thereof.* PLANS AND SECTIONS.—*These shall show the constructive character of the works, and the connections (if any) with existing streets, sewers, or other works, and the lines and levels of the works, subject to such limits of deviation (if any) as shall be indicated on the plans and sections respectively.* ESTIMATES.—*These shall show the particulars of the probable cost of the whole works, including the commission provided for by this Act.* PROVISIONAL APPORTIONMENTS.—*These shall state the amounts charged on the respective premises and the names of the respective owners, or reputed owners, and shall also state whether the apportionment is made according to the frontage of the respective premises or not, and the measurements of the frontages, and the other considerations (if any) on which the apportionment is based.*"

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(1) Modification in Sched. I, Part I, of Act of 1929, is: "the county surveyor when preparing his specification of private street works under s. 6 (2) shall, if and so far as the works include sewers, consult the rural district council." See also P.H. Act, 1925, s. 35, *post*, p. 360.

PUBLICATION.—*The manner of publication prescribed in Part II of the Schedule is: "Any resolution, notice, or other document required by this Act to be published in the manner prescribed by this Schedule shall be published once in each of two successive weeks in some local newspaper circulating within the district, and shall be publicly posted in or near the street to which it relates once at least in each of three successive weeks."*

Sect. 7. [*Objections to proposed works.*]

During the said month any owner of any premises shown in a provisional apportionment as liable to be charged with any part of the expenses of executing the works may, by written notice served on the urban authority, object to the proposals of the urban authority on any of the following grounds; (that is to say)—

(*a*) That an alleged street or part of a street is not or does not form part of a street within the meaning of this Act;

(*b*) That a street or part of a street is (in whole or in part) a highway repairable by the inhabitants at large;

(*c*) That there has been some material informality, defect, or error in or in respect of the resolution, notice, plans, sections, or estimate;

(*d*) That the proposed works are insufficient or unreasonable, or that the estimated expenses are excessive;

(*e*) That any premises ought to be excluded from or inserted in the provisional apportionment;

(*f*) That the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or (where the provisional apportionment is made with regard to other considerations than frontage as hereinafter provided) in respect of the degree of benefit to be derived by any persons, or the amount or value of any work already done by the owner or occupier of any premises.

For the purposes of this Act joint tenants or tenants in common may object through one of their number authorised in writing under the hands of the majority of such joint tenants or tenants in common.[1]

Sect. 8. [*Hearing and determination of objections.*]

(1) The urban authority at any time after the expiration of the said month may apply to a court of summary jurisdiction to appoint a time for determining the matter of all objections made as in this Act mentioned, and shall publish a notice of the time and place appointed, and copies of such notice shall be served upon the objectors; and at the time and place so appointed any such court may proceed to hear and determine the matter of all such objections in the same manner as

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[1] As to what justices may do when upholding an objection under (*d*), see *Birmingham Cpn.* v. *Mother-General of Convent of St. Paul* (1927), 91 J.P. 186; 25 L.G.R. 517; 44 T.L.R. 31.

nearly as may be, and with the same powers and subject to the same provisions with respect to stating a case, as if the urban authority were proceeding summarily against the objectors to enforce payment of a sum of money summarily recoverable. The court may quash in whole or in part or may amend the resolution, plans, sections, estimates, and provisional apportionments, or any of them, on the application either of any objector or of the urban authority. The court may also, if it thinks fit, adjourn the hearing and direct any further notices to be given.

(2) No objection which could be made under this Act shall be otherwise made or allowed in any court proceeding or manner whatsoever.

(3) The costs of any proceedings before a court of summary jurisdiction in relation to objections under this Act shall be in the discretion of the court, and the court shall have power, if it thinks fit, to direct that the whole or any part of such costs ordered to be paid by an objector or objectors shall be paid in the first instance by the urban authority, and charged as part of the expenses of the works on the premises of the objector or objectors in such proportions as may appear just.

Sect. 9. [*Incidental works.*]

(1) The urban authority may include in any works to be done under this Act with respect to any street or part of a street any works which they think necessary for bringing the street or part of a street, as regards sewerage, drainage, level, or other matters, into conformity with any other streets (whether repairable or not by the inhabitants at large), including the provision of separate sewers for the reception of sewage and of surface water respectively.[1]

(2) The urban authority in any estimate of the expenses of private street works may include a commission not exceeding five pounds per centum (in addition to the estimated actual cost) in respect of surveys, superintendence, and notices, and such commission when received shall be carried to the credit of the district fund.

Sect. 10. [*Apportionment of expenses.*]

In a provisional apportionment of expenses of private street works the apportionment of expenses against the premises fronting, adjoining, or abutting on the street or part of a street in respect of which the expenses are to be incurred shall, unless the urban authority otherwise resolve, be apportioned according to the frontage of the respective premises; but the urban authority may, if they think just, resolve that in settling the apportionment regard shall be had to the following considerations; (that is to say,)

(*a*) The greater or less degree of benefit to be derived by any premises from such works;

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(1) And see P.H. Act, 1925, s. 35, *post*, p. 360.

(*b*) The amount and value of any work already done by the owners or occupiers of any such premises.

They may also, if they think just, include any premises which do not front, adjoin, or abut on the street or part of a street, but access to which is obtained from the street through a court, passage, or otherwise, and which in their opinion will be benefited by the works, and may fix the sum or proportion to be charged against any such premises accordingly.[1]

Sect. 11. [*Amendment of plan, etc.*]

The urban authority may from time to time amend the specifications, plans, and sections (if any), estimates, and provisional apportionments for any private street works, but if the total amount of the estimate in respect of any street or part of a street is increased, such estimate and the provisional apportionment shall be published in the manner prescribed in Part II of the Schedule to this Act,[2] and shall be open to inspection at the urban authority offices at all reasonable times, and copies thereof shall be served on the owners of the premises affected thereby; and objections may be made to the increase and apportionment, and if made shall be dealt with and determined in like manner as objections to the original estimate and apportionment.

Sect. 12.. [*Final apportionment and recovery of expenses.*]

(1) When any private street works have been completed, and the expenses thereof ascertained, the surveyor shall make a final apportionment by dividing the expenses in the same proportions in which the estimated expenses were divided in the original or amended provisional apportionment (as the case may be), and such final apportionment shall be conclusive for all purposes; and notice of such final apportionment shall be served upon the owners of the premises affected thereby; and the sums apportioned thereby shall be recoverable in manner provided by this Act, or in the same manner as private improvement expenses are recoverable under the Public Health Act, 1875, including the power to declare any such expenses to be payable by instalments.[3]

(2) Within one month after such notice the owner of any premises charged with any expenses under such apportionment may, by a written notice to the urban authority, object to such final apportionment on the following grounds, or any of them :—

(*a*) That the actual expenses have without sufficient reason exceeded the estimated expenses by more than fifteen per cent.

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(1) An appeal lies to the Minister of Health, when the work has been done and the expenses are demanded, if the council do not utilise this section, see *Rex* (*Aldridge*) v. *Minister of Health*, L.R. 1925, 2 K.B. 363; 94 L.J.K.B. 707; 133 L.T. 139; 89 J.P. 114; 23 L.G.R. 449.

(2) See Note to s. 6, *ante*, p. 300.

(3) See P.H. Act, 1875, s. 213, set out *ante*, p. 282.

(*b*) That the final apportionment has not been made in accordance with this section.

(*c*) That there has been an unreasonable departure from the specification, plans, and sections.

(3) Objections under this section shall be determined in the same manner as objections to the provisional apportionment.[1]

Sect. 13. [*Charge on premises.*]

(1) Any premises included in the final apportionment, and all estates and interests from time to time therein, shall stand and remain charged (to the like extent and effect as under section 257 of the Public Health Act, 1875) with the sum finally apportioned on them, or if objection has been made against the final apportionment with the sum determined to be due as from the date of the final apportionment, with interest at the rate of four pounds per centum per annum, and the urban authority shall, for the recovery of such sum and interest, have all the same powers and remedies under the Conveyancing and Law of Property Act, 1881, and otherwise as if they were mortgagees having powers of sale and lease and of appointing a receiver.[2]

(2) The urban authority shall keep a register of charges under this Act and of the payments made in satisfaction thereof, and the register shall be open to inspection to all persons at all reasonable times on payment of not exceeding one shilling in respect of each name or property searched for, and the urban authority shall furnish copies of any part of such register to any person applying for the same on payment of such reasonable sum as may be fixed by the urban authority.[3]

Sect. 14. [*Recovery of expenses summarily or by action.*]

The urban authority, if they think fit, may from time to time (in addition and without prejudice to any other remedy) recover summarily in a court of summary jurisdiction, or as a simple contract debt by action in any court of competent jurisdiction, from the owner for the time being of any premises in respect of which any sum is due for expenses of private street works the whole or any portion of such sum, together with interest at a rate not exceeding four pounds per centum per annum, from the date of the final apportionment till payment thereof.[4]

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(1) The expenses cannot be recovered if, within the month allowed by s. 7, an objection has been made to the provisional apportionment, and the council have not had an objection determined by the justices under s. 8 (*Faulkner* v. *Hythe Cpn.*, L.R. 1927, 1 K.B. 532; 96 L.J.K.B. 167; 136 L.T. 329; 91 J.P. 22; 25 L.G.R. 60).

(2) P.H. Act, 1875, s. 257, has been set out, *ante*, p. 285. The charge may be enforced before the six months for summary proceedings have expired, see *Sunderland Cpn.* v. *Priestman*, *ante*, p. 286 (1), where other cases as to recovery of expenses are cited.

(3) As to "local land charges," see Land Charges Act, 1925 (15 & 16 Geo. V, c. 22), s. 15, as amended by Law of Property (Amendment) Act, 1926 (16 & 17 Geo. V, c. 11), Sched. See also S.R.O. 1925, No. 1148; and *Re Forsey & Hollebone's Contract*, L.R. 1927, 2 Ch. 379; 97 L.J. Ch. 4; 138 L.T. 26; 91 J.P. 182; 25 L.G.R. 442.

(4) Interest raised to 5 per cent. by P.H. Act, 1925 (15 & 16 Geo. V, c. 71), s. 77. Expenses, with interest for 17 years, were recovered from a new owner on whom a fresh demand was served. (*Dennerley* v. *Prestwich U.D.C.*, May 15, 1929, Shearman, J.).

Sect. 15. [*Contribution by urban authority to expenses.*]

The urban authority, if they think fit, may at any time resolve to contribute the whole or a portion of the expenses of any private street works, and may pay the same out of the district fund or general district rate or other rate out of which the general expenses incurred under the Public Health Act, 1875, are payable.

Sect. 16. [*Exemption from expenses of incumbent of church.*]

The incumbent or minister or trustee of any church, chapel, or place appropriated to public religious worship, which is for the time being by law exempt from rates for the relief of the poor, shall not be liable to any expenses of private street works as the owner of such church, chapel, or place, or of any churchyard or burial ground attached thereto, nor shall any such expenses be deemed to be a charge on such church, chapel, or other place, or on such churchyard or burial ground, or to subject the same to distress, execution, or other legal process, but the proportion of expenses in respect of which an exemption is allowed under this section shall be borne and paid by the urban authority.[1]

Sect. 17. [*Power for limited owners to borrow for expenses.*]

All owners of buildings or lands, being persons who under the Lands Clauses Acts are empowered to sell and convey or release lands, may charge such buildings or lands with such sum as may be necessary to defray the whole or any part of any expenses which the owners of or any persons in respect of such buildings or lands for the time being are liable to pay under this Act and the expenses of making such charge, and for securing the repayment of such sum with interest may mortgage such buildings or lands to any person advancing such sum, but so that the principal due on any such mortgage shall be repaid by equal yearly or half-yearly payments within twenty years.[2]

Sect. 18. [*Power for urban authority to borrow for private street works.*]

The urban authority may from time to time, with the sanction of the [Minister of Health], borrow, on the security of the district fund and general district rates or other rate out of which the general expenses incurred under the Public Health Act, 1875, are payable, moneys for the purpose of temporarily providing for expenses of private street works, and the powers of the urban authority to borrow under the Public Health Acts shall be available as if the execution of private street works under this Act were one of the purposes of the Public Health Act, 1875.[3]

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(1) The word "attached" in the present section prevents the exemption applying to a burial ground five miles away from church (*Holy Law South Broughton Burial Bd.* v. *Failsworth U.D.C.*, 1927, 91 J.P. 104; 25 L.G.R. 324; 43 T.L.R. 519).

(2) See s. 7 of Act of 1845 (8 Vict. c. 18) and Note in Glen's P.H. at pp. 1567, 1568.

(3) See ss. 233 and 234 of Act of 1875, *ante*, p. 284.

Sect. 19. [*Adoption of private streets.*]

Whenever all or any of the private street works in this Act mentioned have been executed in a street or part of a street, and the urban authority are of opinion that such street or part of a street ought to become a highway repairable by the inhabitants at large, they may by notice to be fixed up in such street or part of a street declare the whole of such street or part of a street to be a highway repairable by the inhabitants at large, and thereupon such street or part of a street as defined in the notice shall become a highway repairable by the inhabitants at large.

Sect. 20. [*On street being paved, &c. urban authority to declare same public highway.*]

If any street is now or shall hereafter be sewered, levelled, paved, metalled, flagged, channelled, and made good (all such works being done to the satisfaction of the urban authority), then, on the application in writing of the greater part in value of the owners of the houses and land in such street, the urban authority shall, within three months from the time of such application, by notice put up in such street declare the same to be a highway repairable by the inhabitants at large, and thereupon such street shall become a highway repairable by the inhabitants at large.

Sect. 21. [*Separate accounts of expenses of works.*]

(1) The urban authority shall keep separate accounts of all moneys expended and recovered by them in the execution of the provisions of this Act relating to private street works.

(2) All moneys recovered by the urban authority under this Act in respect of street works shall be applied in repayment of moneys borrowed for the purpose of executing private street works, or if there is no such loan outstanding then in such manner as may be directed by the [Minister of Health].

Sect. 22. [*Railways and canals abutting but not communicating with streets not to be chargeable with private street expenses.*]

No railway or canal company shall be deemed to be an owner or occupier for the purposes of this Act in respect of any land of such company upon which any street shall wholly or partially front or abut, and which shall at the time of the laying out of such street be used by such company solely as a part of their line of railway, canal, or siding, station, towing path, or works, and shall have no direct communication with such street; and the expenses incurred by the urban authority under the powers of this Act which, but for this provision, such company would be liable to pay, shall be repaid to the urban authority by the owners of the premises included in the apportionments, and in such proportion as shall be settled by the surveyor; and in the event of such company subsequently making a communication with such street they shall, notwithstanding such repayment as last aforesaid, pay to the urban authority the expenses which, but for the foregoing provision, such company would in the first instance have been liable to pay, and the urban authority shall divide among the owners for the time being included in the apportionment the amount so paid by such company to the urban authority, less the costs and expenses attendant upon such division, in such proportion as shall be settled by the surveyor, whose decision shall be final and conclusive. This section shall not apply to any street existing at the date of the adoption of this Act.

Sect. 23. [*Expenses of local authority.*]

All expenses incurred or payable by an urban authority and a rural sanitary authority respectively in the execution of this Act, and not otherwise provided for, may be charged and defrayed as part of the expenses incurred by them respectively in the execution of the Public Health Acts.[1]

Sect. 24. [*Powers of Act cumulative.*]

All powers given to a local authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon such local authority by any Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed.

Sect. 25. [*Certain sections of Public Health Acts not to apply.*]

Neither sections 150, 151, and 152 of the Public Health Act, 1875, nor section 41 of the Public Health Acts Amendment Act, 1890, shall apply to any district or part of a district in which this Act is in force

Sect. 26. [*For protection of Conservators of the River Thames.*]

This Act shall not extend to prejudice or derogate from the estates, rights, and privileges of the Conservators of the River Thames, or render them liable to any charges or payments in respect of any of their works on or upon the shores of the River Thames.

THE LOCAL GOVERNMENT ACT, 1894.

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Sect. 8. [*Additional powers of parish council.*[3]]

Sect. 13. [*Footpaths and roads.*]

(1) The consent of the parish council and of the district council

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[1] See P.H. Act, 1875, s. 207, *ante*, p. 281, as to urban, and s. 229, *ante*, p. 283, as to rural expenses.

[2] This Act will be found fully annotated in "Glen's Public Health," 1925 Edition, at pp. 1995–2118.

[3] See Note to s. 115 of Act of 1929, *ante*, p. 178.

shall be required for the stopping, in whole or in part, or diversion, of a public right of way within a rural parish, and the consent of the parish council shall be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense, and the parish council shall give public notice of a resolution to give any such consent, and the resolution shall not operate (*a*) unless it is confirmed by the parish council at a meeting held not less than two months after the public notice is given; nor (*b*) if a parish meeting held before the confirmation resolve that the consent ought not to be given.

(2) A parish council may, subject to the provisions of this Act with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but this power shall not nor shall the exercise thereof relieve any other authority or person from any liability with respect to such repair or maintenance.[1]

Sect. 25. [*Powers of district council with respect to sanitary and highway matters.*]

(1) As from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority in the district . . .[2] and highway boards shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority . . .[2]

(2) Where a highway repairable *ratione tenuræ* appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.[3]

(3) Where a highway authority receives any contribution from the county council towards the costs of any highway under sect. 11 (10) of the Local Government Act, 1888,[4] such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

* * * *[2]

(5) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to

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(1) See Note to this section in Glen's P.H. at p. 2012.

(2) Omitted words repealed by s. 137 and Sched. XII, Part III, of Act of 1929, *ante*, p. 219. As to highway functions of rural district councils now, see ss. 30, 35, and 36 of Act of 1929, *ante*.

(3) Applied, without modification, by s. 30 of Act of 1929, *ante*, p. 80 (8). As to highways repairable *ratione tenuræ*, see cases cited in Note to s. 38 of Act of 1929, *ante*, p. 101 (1).

(4) Set out, *ante*, p. 288.

urban districts shall apply to rural districts, as the [Minister of Health] by general order direct.

(6) The power to make such general orders shall be in addition to and not in substitution for the powers conferred on the [Minister] by sect. 276 of the Public Health Act, 1875,[1] or by any enactment applying that section; and every order made by the [Minister of Health] under this section shall be forthwith laid before Parliament.

(7) The powers conferred on the [Minister of Health] by the said sect. 276, or by any enactment applying that section, may be exercised on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish.

Sect. 26. [*Duties and powers of district council as to rights of way, rights of common, and roadside wastes.*]

(1) It shall be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.[2]

(2) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under sect. 8 of the Commons Act, 1876,[3] be exercised by an urban sanitary authority in relation to any common referred to in that section: and notice of any application to the [Minister] of Agriculture [and Fisheries] in relation to any common within their district shall be served upon the district council.

(3) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.[4]

(4) Where a parish council have represented to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment

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(1) 38 & 39 Vict. c. 55, s. 276.

(2) See Note to s. 30 of Act of 1929, *ante*, p. 78 (3). As to "roadside wastes," see "Glen's Public Health," 1925 Edition, at pp. 2042–2045, and special booklet published by Commons and Footpaths Preservation Society.

(3) 39 & 40 Vict. c. 56, s. 8. See Glen's P.H. at pp. 1453, 1454, and Note to D. & R.I. Act, 1909, s. 19 (4), *post*, pp. 337-339.

(4) For an inexpensive remedy, see *Dartford R.D.C.* v. *Stone Court Quarry Co.*, 1917, 81 J.P. Journal 392; 39 M.C.C. 167; and further Note thereon in Glen's P.H. at p. 2046.

has taken place, on any roadside waste within the district, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly; and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolve the powers and duties of the district council under this section shall be transferred to the county council.

(5) Any proceedings or steps taken by a district council or county council in relation to any alleged right of way shall not be deemed to be unauthorised by reason only of such right of way not being found to exist.

(6) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.[1]

(7) Nothing in this section shall prejudice any powers exercisable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

Sect. 46. [*Disqualifications.*][2]

Sect. 57. [*Joint committees.*]

(1) A parish or district council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district.[3]

(2) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.

(4) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

(5) Where a parish council can under this Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee, and shall be duly complied with by the parish councils concerned at the time of the appointment of such committee

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(1) See L.G. Act, 1888, s. 11 (1), *ante*, p. 287.

(2) Set out in Note to s. 10 of Act of 1929, *ante*, p. 49.

(3) See Notes to ss. 3, 40, and 41 of Act of 1929, *ante*, pp. 39, 103, 104.

Sect. 58. [*Audit of accounts of district and parish councils and inspection.*]

(1) The accounts of the receipts and payments of parish and district councils, and of parish meetings for parishes not having parish councils, and their committees and officers, shall be made up yearly to the thirty-first day of March, or in the case of accounts which are required to be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the [Minister of Health prescribes].

(2) The said accounts shall, except in the case of accounts audited by the auditors of a borough, (but inclusive of the accounts of a joint committee appointed by a borough council with another council not being a borough council,) be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of urban sanitary authorities and their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.[1]

(3) The [Minister of Health] may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(4) Every [local government] elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5) Every [local government] elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

Sect. 59. [*See Sched. X* (14) *of Act of* 1929, *ante.*]

Sect. 63. [*Provisions as to county council acquiring powers of district council.*]

(1) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council, the following provisions shall have effect :—[2]

(*a*) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the [Minister of Health] :

(*b*) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses:

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[1] See Notes to ss. 3, 40, and 41 of Act of 1929, *ante*, pp. 39, 103, 104.

[2] See s. 63 (6) of Act of 1929, *ante*, p. 123.

(*c*) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers:

(*d*) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council:

(*e*) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers:

(*f*) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by the district council for the purpose of those powers.

(2) Where a rural district is situate in two or more counties a parish council complaining under this Act may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint shall be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the [Minister of Health], and if any members of the joint committee are not appointed, the members who are actually appointed shall act as the joint committee.

Sect. 64. [*Power to act through district council.*][1]

Sect 85. [*Current rates, etc.*]

(1) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed.[2]

(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in

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(1) Set out in Note to s. 35 of Act of 1929, *ante*, p. 96.
(2) See Note to s. 12 of Act of 1929, *ante*, p. 53.

like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

(5) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

Sect. 86. [*Saving for existing securities and discharge of debts.*]

(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.[1]

(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

Sect. 87. [*Saving for existing bye-laws.*]

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(1) See Note to s. 12 of Act of 1929, *ante*, p. 53

Sect. 88. [*Saving for pending contracts, etc.*]

(1) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.[1]

(2) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto.

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907.

PART I.

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Sect. 7. [*Appeals to quarter sessions, etc.*]

(1) Except where this Act otherwise expressly provides any person aggrieved—(*a*) By any order, judgment, determination, or requirement of a local authority under this Act; (*b*) By the withholding of any order, certificate, licence, consent, or approval, which may be made, granted, or given by a local authority under this Act; (*c*) By any conviction or order of a court of summary jurisdiction under any provision of this Act; may appeal, in manner provided by the Summary Jurisdiction Acts, to a court of quarter sessions.

(2) Where any person deems himself aggrieved by the decision of the local authority in any case in which the local authority, under this Act, are empowered to recover in a summary manner any expenses incurred by them, or to declare the expenses to be private improvement expenses, sect. 268 of the Public Health Act, 1875, shall apply as it applies to cases under that Act, and subsect. (1) of this section shall not apply in any such case, whether arising under the Public Health Act, 1875, or under this Act; but nothing in this subsection shall extend to any case in which an appeal to a court of summary jurisdiction in relation to any requirement of a local authority, or to any such expenses, is expressly authorised by this Act.[2]

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(1) See Note to s. 12 of Act of 1929, *ante*, p. 53.

(2) See Note to s. 30 of Act of 1929, *ante*, p. 81 (10). For s. 268, see *ante*, p. 286. For the present Act, and the cases thereon, see "Glen's Public Health," 1925 Edition, at pp. 881–928.

PART II.

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Sect. 18. [*Crossing for cattle, etc., over footways.*]

The provision and use of new means of access for any cattle, any beast of draught or burden, any waggon, cart, or other wheeled carriage exceeding four feet in width or two hundredweight in weight, to or from any premises fronting, adjoining, or abutting on any street which has become a highway repairable by the inhabitants at large, may, where that provision involves passage across or interference with any such part of the street as comprises a kerbed or paved footway,[1] be allowed by the local authority subject to the following conditions (that is to say) :—

(*a*) Every person who intends to provide the new means of access shall give notice in writing of his intention to the local authority, and shall at the same time submit, for the approval of the local authority, a plan showing the position, gradient, and mode of construction of the intended means of access;

(*b*) When the plan, with or without amendment, has been approved by the local authority, the person may, upon receiving notice of their approval, proceed to execute the necessary works, but those works shall be executed under the supervision and to the reasonable satisfaction of the local authority, and in accordance with the plan as approved by the local authority;

(*c*) After the completion of the works the new means of access may be used, subject to the conditions which, in pursuance of any provisions of the law relating to highways, attach to the use for the like purpose of any carriageway forming part of a highway repairable by the inhabitants at large.[2]

Sect. 19. [*As to urgent repairs to private streets.*]

(1) Where repairs are required in the case of any street, not being a highway repairable by the inhabitants at large, to obviate or remove danger to any passenger or vehicle in the street, the local authority may give notice in writing to the owners of the lands and premises fronting, adjoining, or abutting on the street, and may require the owners to execute, within a time to be specified in the notice, such repairs as are described in the notice.

(2) If, within the time specified in the notice, the repairs described in the notice are not executed, the local authority may execute the repairs, and may recover summarily, as a civil debt, the cost of the

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(1) In some town-planning schemes, the present section is inserted with the words " or grass margin " added here.

(2) Applied, without modification, by Sched. I, Parts I and III, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (9) and 85 (5).

repairs so executed from the owners in default, and the amount recoverable from each owner shall be in the proportion which the extent of his lands and premises fronting, adjoining, or abutting on the street, bears to the total extent of all lands and premises so fronting, adjoining, or abutting.

(3) Where the name or place of abode of an owner cannot be found by the local authority, a copy of the notice shall be sent by post to or left with the occupier of the lands and premises to which the notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of the lands and premises.

(4) In every case in which, within the time specified in the notice, the majority in number or rateable value of owners of lands and premises in the street, by a notice in writing, require the local authority to proceed, in relation to the street, under sect. 150 of the Public Health Act, 1875, or, if the Private Street Works Act, 1892, is in force in the district, under that Act, the local authority shall so proceed; and where the local authority so proceed they shall, on the completion of the necessary works, forthwith declare the street to be a highway repairable by the inhabitants at large, and on and after the date of the declaration the street shall become a highway so repairable.[1]

Note.

URGENT REPAIRS.—*A local authority cannot, under the present section, make up two separate streets and apportion the expenses of both together on the frontagers.*[2] *In the case cited below,*[3] *Lord Alverstone, C.J., said:—* "*I am not at present prepared to say that the giving of a notice to repair under sect.* 19 (1) *will force the local authority to go on under the Private Street Works Act when a counter-notice is given. It seems to me that there are grounds for arguing that, if the counter-notice is given, they may abandon the whole proceedings, and it is sufficient to say that, if they do go on, they must go on under the Private Street Works Act.*"

Sect. 20. [*Recovery of damages caused to footways by excavations.*]

If the footway of any street repairable by the inhabitants at large be injured by or in consequence of any excavations or other works on lands adjoining thereto, the local authority may repair or replace the footway so injured, and all damages and expenses of or arising from such injury and repair or replacement shall be paid to the local authority by the owner of the lands on which such excavations or other works have been made, or by the person causing or responsible for the injury.[4]

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(1) Applied, without modification, by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (10). See also cases cited in Glen's P.H. at pp. 889, 890. The Act of 1892 has been set out, *ante*, p. 299.

(2) *Nash* v. *Giles* (1926), 96 L.J.K.B. 216; 136 L.T. 352; 91 J.P. 19; 25 L.G.R. 66.

(3) *Rex* (*Course*) v. *Epsom U.D.C.* (1912, K.B.D.), 76 J.P. 389; 10 L.G.R. 609, at p. 616.

(4) Applied, without modification, by Sched. I, Parts I and III, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (11) and 85 (6).

Sect. 29. [*Deposit of building materials or excavations not to be made without consent.*]

It shall not be lawful for any person without the consent of the local authority in writing first obtained to lay any building materials, rubbish, or other thing, or make any excavation on or in any street repairable by the inhabitants at large, and when with such consent any person lays any building materials, rubbish, or other thing, or makes any excavation on or in any street, he shall, at his own expense, cause the same to be sufficiently fenced and a sufficient light to be fixed in a proper place on or near the same and to be continued every night from sunset to sunrise, and shall remove such materials, rubbish, or thing or fill up such excavation (as the case may be) when required by the local authority; and, if any person fails to comply in any respect with the requirements of this enactment, he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and the local authority may remove any such materials, rubbish, or thing, or fill up such excavation (as the case may be), and recover the expenses from the offender summarily as a civil debt.[1]

PART III.

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Sect. 47. [*Public conveniences and lavatories.*]

The local authority may provide and maintain in proper and convenient situations sanitary conveniences in or under any street repairable by the inhabitants at large, and may provide and maintain in proper and convenient situations lavatories in or under any such street for the use of the public, and may employ and pay attendants and make reasonable charges for the use of any sanitary conveniences (other than a urinal) or of any lavatory so provided. The local authority may make bye-laws for the management of the sanitary conveniences and lavatories, and as to the conduct of persons frequenting the same. The local authority may let any such sanitary conveniences and any such lavatories for such periods, at such rents, and subject to such conditions as to the charges to be made for the use thereof and otherwise, as they think proper.[2]

PART X.

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Sect. 95. [*Extension and amendment of* 38 & 39 *Vict. c.* 55, *ss.* 175, 176.]

The powers of a local authority under sects. 175 and 176 of the Public Health Act, 1875,[3] shall extend to highway purposes, and

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(1) Applied, without modification, by Sched. I, Parts I and III, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (12) and 85 (7).

(2) Applied, without modification, by Sched. I, Parts II and V, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 81 (4) and 85 (15).

(3) Set out *ante*, pp. 279, 280.

notwithstanding anything in sect. 175 of the Public Health Act, 1875, or any general provision in any local Act, any lands acquired by a local authority and not required for the purposes for which those lands have been acquired may be appropriated for any purpose approved by the [Minister of Health], subject, nevertheless, to any special covenant or condition affecting the use of the lands attached thereto at the time of the purchase by the local authority, or to any special provision affecting the use of the lands contained in any local Act: Provided that the local authority shall not, on any lands so appropriated, create or permit any nuisance; and that the local authority shall not, on any such lands, sink any well for the public supply of water, or construct any cemetery, burial ground, destructor, station for generating electricity, sewage farm, or hospital for infectious disease, unless, after local inquiry and consideration of any objections made by persons affected, the [Minister of Health], subject to such conditions as [he thinks] fit, [authorises] the work or construction.

Nothing in this section shall affect any rights acquired before the commencement of this section under any judgment or order of a court of competent jurisdiction, or under any agreement in writing, but if a dispute, one of the parties to which is a local authority, arises under such an agreement as to any such right, the dispute shall, if either party so require, be settled by the [Minister of Health] as if it were a doubt or difference within the meaning of sect. 304 of the Public Health Act, 1875,[1] and the [Minister of Health] may for that purpose deal by order with any matters which may be dealt with by an order or provisional order under the said section.[2]

Note.

SURPLUS LAND.—*In most cases, unless the present section is in force, land acquired under statutory authority for one purpose cannot lawfully be utilised for another purpose, except temporarily in some way not inconsistent with its being ultimately utilised for the purpose for which it was acquired. As to this doctrine, see the cases cited in the work mentioned below.*[3]

THE CHILDREN ACT, 1908.

PART I.

Sect. 1. [*Notices to be given by persons receiving infants for reward.*]

(1) Where a person undertakes for reward the nursing and maintenance of one or more infants under the age of seven years apart from their parents or having no parents, he shall, within forty-eight

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(1) 38 & 39 Vict. c. 55, s. 304. See Glen's P.H. at pp. 747, 748.

(2) Applied by s. 53 (2) of Act of 1929, *ante*, p. 114.

(3) "Glen's Public Health," 1925 Edition, at pp. 468, 469.

hours from the reception of any such infant, give notice in writing thereof to the local authority: Provided that this section shall not apply, as respects any infant, where the period for which it is received is forty-eight hours or less.[1]

(2) Where a person undertakes for reward the nursing and maintenance of an infant already in his care without reward, the entering into the undertaking shall, for the purposes of this Part of this Act, be treated as a reception of the infant.

(3) The notice shall state the name, sex, and date and place of birth of the infant, the name of the person receiving the infant, and the dwelling within which the infant is being kept, and the name and address of the person from whom the infant has been received.

(4) If a person who has undertaken the nursing and maintenance of any such infant changes his residence, he shall within forty-eight hours thereof give to the local authority notice in writing of the change, and, where the residence to which he moves is situate in the district of another local authority, he shall give to that local authority the like notice as respects each infant in his care as he is by this section required to give on the first reception of the infant.

(5) If any such infant dies or is removed from the care of the person who has undertaken its nursing and maintenance, that person shall, within forty-eight hours thereof, give to the local authority notice in writing of the death or removal, and in the latter case also of the name and address of the person to whose care the infant has been transferred.

(6) Where at the commencement of this Act any infant is under the care of any person who has, before the commencement of this Act, undertaken its nursing and maintenance under such circumstances that if its nursing and maintenance had been undertaken after the commencement of this Act he would have been required to give notice to the local authority under this section, he shall, within one month after the commencement of this Act, give to the local authority the like notice as if the nursing and maintenance of the infant had been undertaken after the commencement of this Act: Provided that nothing in this subsection—(*a*) shall apply to any person who on the reception of an infant gave such notice as was required by the Infant Life Protection Act, 1897;[2] or (*b*) shall exempt any person who ought to have given notice under that Act from any liability which he may have incurred thereunder.

Subject as aforesaid, this Part of this Act shall apply to an infant whose nursing and maintenance has been undertaken for reward before the passing of this Act in like manner as it applies to an infant

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(1) See s. 2 of Act of 1929, and Notes, *ante*, p. 36.

(2) 60 & 61 Vict. c. 57. The whole of this Act was repealed by s. 134 (3) and Sched. III of the Act of 1908. It required (by s. 2 (1) and (2)) a similar 48 hours' notice to that required by s. 1 (1) and (3), *supra*.

whose nursing and maintenance has been so undertaken after the commencement of this Act, and as if any notice given under the Infant Life Protection Act, 1897, had been a notice given under this Part of this Act.

(7) If any person required to give a notice under this section fails to give the notice within the time specified for giving the notice, he shall be guilty of an offence under this Part of this Act, and, if the infant in respect of which notice ought to have been given was an infant the consideration for whose nursing and maintenance consisted in whole or in part of a lump sum, the person failing to give the notice shall, in addition to any other penalty under this Part of this Act, be liable to forfeit that sum or such less sum as the court having cognizance of the case may deem just, and the sum forfeited shall be applied for the benefit of the infant in such manner as the court may direct, and where any such sum is ordered to be forfeited the order may be enforced as if it were an order of the court made on complaint.

Sect. 2. [*Appointment and powers of inspectors, &c.*]

(1) It shall be the duty of every local authority to provide for the execution of this Part of this Act within their district, and for that purpose they shall from time to time make inquiry whether there are any persons residing therein who undertake the nursing and maintenance of infants in respect of whom notice is required to be given under the foregoing section.

(2) If in the district of any local authority any persons are found to undertake the nursing and maintenance of such infants as aforesaid, the local authority shall appoint one or more persons of either sex to be infant protection visitors, whose duty it shall be from time to time to visit any infants referred to in any notice given under this Part of this Act, and the premises in which they are kept, in order to satisfy themselves as to the proper nursing and maintenance of the infants or to give any necessary advice or directions as to their nursing and maintenance: Provided that the local authority may, either in addition to or in lieu of appointing infant protection visitors, authorise in writing one or more suitable persons of either sex to exercise the powers of infant protection visitors under this Part of this Act, subject to such terms and conditions as may be stated in the authorisation, and, where any infants have been placed out to nurse in the district of the authority by any philanthropic society, may, if satisfied that the interests of the infants are properly safeguarded, so authorise the society to exercise those powers as respects those infants, subject, however, to the obligation to furnish periodical reports to the local authority.

(3) A local authority may combine with any other local authority for the purpose of executing the provisions of this Part of this Act, and for defraying the expenses thereof.

(4) A local authority may exempt from being visited, either unconditionally or subject to such conditions as they think fit, any particular premises within their district which appear to them to be so conducted that it is unnecessary that they should be visited.

(5) If any person undertaking the nursing and maintenance of any such infants refuses to allow any such visitor or other person to visit or examine the infants or the premises in which they are kept, he shall be guilty of an offence under this Part of this Act.

(6) If any such visitor or other person is refused admittance to any premises in contravention of this Part of this Act, or has reason to believe that any infants under the age of seven years are being kept in any house or premises in contravention of this Part of this Act, he may apply to a justice, who, on being satisfied, on information in writing on oath, that there is reasonable ground for believing that an offence under this Part of this Act has been committed, may grant a warrant authorising the visitor or other person to enter the premises for the purpose of ascertaining whether any offence under this Part of this Act has been committed, and, if the occupier of the premises or any other person obstructs or causes or procures to be obstructed any visitor or other person acting in pursuance of such a warrant, he shall be guilty of an offence under this Part of this Act.

Sect. 3. [*Persons prohibited from receiving children for reward.*]

An infant, in respect of which notice is required to be given under this Part of this Act, shall not, without the written sanction of the local authority, be kept—(*a*) by any person from whose care any infant has been removed under this Part of this Act or the Infant Life Protection Act, 1897; or (*b*) in any premises from which any infant has been removed under this Part of this Act by reason of the premises being dangerous or insanitary, or has been removed under the Infant Life Protection Act, 1897, by reason of the premises being so unfit as to endanger its health; or (*c*) by any person who has been convicted of any offence under Part II of this Act or under the Prevention of Cruelty to Children Act, 1904;[1] and any person keeping or causing to be kept an infant contrary to this section shall be guilty of an offence under this Part of this Act.

Sect. 4. [*Local authority to fix number of infants which may be retained.*]

The local authority may fix the number of infants under the age of even years which may be kept in any dwelling in respect of which a otice has been received under this Part of this Act, and any person eeping any infant in excess of the number so fixed shall be guilty of n offence under this Part of this Act.

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(1) 4 Edw. VII, c. 15, not wholly repealed by s. 134 (3) and Sched. III of the Act of 1908.

Sect. 5. [*Removal of infant improperly kept.*]

(1) If any infant, in respect of which notice is required to be given under this Part of this Act is kept—(*a*) in any premises which are overcrowded, dangerous or insanitary; or (*b*) by any person who, by reason of negligence, ignorance, inebriety, immorality, criminal conduct, or other similar cause, is unfit to have care of it; or (*c*) by any person or in any premises in contravention of any of the provisions of this Part of this Act, any visitor or other person appointed or authorised to execute the provisions of this Part of this Act may apply either to a justice or to the local authority for an order directing him to remove the infant to a place of safety until it can be restored to its relatives or be otherwise lawfully disposed of.

(2) Any person refusing to comply with such an order upon its being produced and read over to him, or obstructing or causing or procuring to be obstructed the visitor or such other person in the execution thereof, shall be guilty of an offence under this Part of this Act, and (*a*) if the order was made by a justice, the order may be enforced by the visitor or by any constable; and (*b*) if the order was made by the local authority the visitor or other person may apply to any justice for an order directing the removal of the infant, which order may be enforced by the visitor or by any constable.

Sect. 6. [*Notice to coroner.*]

(1) In the case of the death of any infant respecting which notice is required to be given under this Part of this Act, the person who had the care of the infant shall, within twenty-four hours of the death, give notice in writing thereof to the coroner of the district within which the body of the infant lies, and the coroner shall hold an inquest thereon, unless a certificate under the hand of a duly qualified medical practitioner is produced to him, certifying that he has personally attended the infant during its last illness, and specifying the cause of death, and the coroner is satisfied that there is no ground for holding an inquest.

(2) If any person required to give a notice under this section fails to give the notice within the time specified for giving the notice, he shall be guilty of an offence under this Part of this Act.

Sect. 7. [*Avoidance of policies of life insurance of infants kept for reward.*]

A person by whom an infant in respect of which notice is required to be given under this Part of this Act is kept shall be deemed to have no interest in the life of the child for the purposes of the Life Assurance Act, 1774,[1] and, if any such person directly or indirectly insures or attempts to insure the life of such an infant, he shall be guilty of an offence under this Part of this Act, and, if a company, within the meaning of the Life Assurance Companies Acts, 1870 to 1872,[1] or any other company, society, or person, knowingly issues, or procures or attempts to procure to be issued, to or for the benefit of such a person as aforesaid or to any person on his behalf, a policy on the life of such an infant, the company, society, or person shall be guilty of an offence under this Part of this Act.

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(1) 14 Geo. III, c. 48, still in force.

Sect. 8. [*Provisions as to notices.*]

(1) If any person required to give a notice under this Part of this Act knowingly or wilfully makes, or causes or procures any other person to make, any false or misleading statement in any such notice, he shall be guilty of an offence under this Part of this Act.

(2) Every notice by this Part of this Act required to be given may be sent by post in a registered letter addressed to the clerk of the local authority or to such other person as the local authority may appoint, or in the case of a notice to a coroner to the coroner, or may be delivered at the office of the local authority or, in the case of a notice to a coroner, at his office or residence.

Sect. 9. [*Prosecution of offences and application of fines.*]

(1) Every person guilty of an offence under this Part of this Act shall on summary conviction be liable to imprisonment for a term not exceeding six months or to a fine not exceeding twenty-five pounds, and the court may order any infant in respect of which the offence was committed to be removed to a place of safety.

(2) Any fines under this Part of this Act shall, notwithstanding any provision in any other Act, be paid to the local authority, and be applied to the purposes to which the fund or rate out of which the expenses of the local authority are to be defrayed is applicable.

Sect. 10. [*Local authorities and expenses.*]

(1) The local authority for the purposes of this Part of this Act shall—(*a*) as respects the County of London, exclusive of the City, be the county council; (*b*) as respects the City of London, be the Common Council; (*c*) elsewhere be the [*guardians of the poor law union.*[2]]

(2) All expenses incurred by or on behalf of the local authority in and about the execution of this Part of this Act shall be defrayed—(*a*) in the case of the County of London, out of the county fund as general county expenses; (*b*) in the case of the City of London, out of the general rate; (*c*) in the case of a [*board of guardians, out of the common fund.*[2]]

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(1) 1870, 33 & 34 Vict. c. 61; 1871, 34 & 35 Vict. c. 58; 1872, 35 & 36 Vict. c. 41; all repealed in 1909 by 9 Edw. VII, c. 49, ss. 37, 38 (2).

(2) See s. 2 of Act of 1929 and Note, *ante*, p. 36.

Sect. 11. [*Exemptions.*]

(1) The provisions of this Part of this Act shall not extend to any relative or legal guardian of an infant who undertakes the nursing and maintenance of the infant, or to any person who undertakes the nursing or maintenance of an infant under the provisions of any Act for the relief of the poor or of any order made under any such Act; or to hospitals, convalescent homes, or institutions established for the protection and care of infants, and conducted in good faith for religious or charitable purposes, or boarding schools at which efficient elementary education is provided.

(2) For the purposes of this section the expression "relatives" means grandparents, brothers, sisters, uncles, and aunts, by consanguinity or affinity, and in the case of illegitimate infants the persons who would be so related if the infant were legitimate.

THE MATERNITY AND CHILD WELFARE ACT, 1918.

Sect. 1. [*Powers of local authorities with respect to maternity and child welfare.*]

Any local authority within the meaning of the Notification of Births Act, 1907,[1] may make such arrangements as may be sanctioned by the [Minister of Health], for attending to the health of expectant mothers and nursing mothers, and of children who have not attained the age of five years and are not being educated in schools recognised by the Board of Education: Provided that nothing in this Act shall authorise the establishment by any local authority of a general domiciliary service by medical practitioners.[2]

Sect. 2. [*Maternity and child welfare committees.*]

(1) Every council in England and Wales exercising powers under this Act or under section 2 of the Notification of Births (Extension) Act, 1915,[3] shall establish a maternity and child welfare committee, which may be an existing committee of the council or a sub-committee of an existing committee, and all matters relating to the exercise of the powers of the council under this Act or under the Notification of Births (Extension) Act, 1915 (except the power of raising a rate or of borrowing money), shall stand referred to such committee and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the maternity and child welfare committee with respect to the matter in question, and

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(1) Namely, councils of counties, boroughs, and urban and rural districts—see 7 Edw. VII, c. 40, s. 2 (4).

(2) See Index, under "MATERNITY," for numerous places in Act of 1929 where the present Act is mentioned. As to "schemes," see s. 5 (3) of that Act.

(3) 5 & 6 Geo. V, c. 64, s. 2. For Acts of 1907 and 1915, see "Glen's Public Health," 1925 Edition, at pp. 2206–2208.

the council may also delegate to the maternity and child welfare committee, with or without restrictions or conditions as they think fit, any of their powers under that Act or this Act, except the power of raising a rate or of borrowing money.

(2) The council may appoint as members of the committee persons specially qualified by training or experience in subjects relating to health and maternity who are not members of the council, but not less than two-thirds of the members of every maternity and child welfare committee shall consist of members of the council, and at least two members of every such committee shall be women, and where the duties of the maternity and child welfare committee are discharged by an existing committee or sub-committee any members appointed under this provision who are not members of the council shall act only in connection with maternity and child welfare.

(3) The committee established under this section shall take the place of any committee appointed under section 2 (2) of the Notification of Births (Extension) Act, 1915,[1] and the provisions of that subsection shall cease to have effect.

(4) A committee established under this section may, subject to any directions of the council, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

Note.

DEPARTMENTAL ORDERS, ETC.—*Numerous Departmental Orders, Memoranda, etc., have been issued on the subject of maternity and child welfare, and a full list will be found in the work mentioned below.*[2] *Circulars on "Maternal Mortality," and "Infant Welfare Centres and Ante-natal Clinics" were issued in* 1928.[3]

Sect. 3. [*Expenses.*]

The expenses of any council in England and Wales under this Act shall be defrayed in the same manner as expenses under the Notification of Births Acts, 1907 and 1915,[4] and the purposes of this Act shall be purposes for which a sanitary authority in London may borrow under section 105 (2) of the Public Health (London) Act, 1891:[5] Provided that a county council may, if they think fit, charge all expenses under this Act or those Acts as general county expenses subject to the condition that, if any district council within the county has provided for its district a similar service to that provided by the county council for other parts of the county, the county council shall pay to the district

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(1) 5 & 6 Geo. V, c. 64, s. 2. For Acts of 1907 and 1915, see "Glen's Public Health," 1925 Edition, at pp. 2206–2208.

(2) Glen's P.H. at pp. 2299, 2300.

(3) Set out in 26 L.G.R. (Orders) 137, 291.

(4) Namely, "as part of the expenses of that authority, in the execution of the Acts relating to public health, and in the case of a rural district council shall be paid as general expenses"—see 7 Edw. VII, c. 40, s. 1 (6).

(5) 54 & 55 Vict. c. 76, s. 105 (2).

council the amount raised by the county council in the district in respect of such service. Any question that may arise between a county council and a district council under this proviso shall be determined by the [Minister of Health]. ***[1]

THE BLIND PERSONS ACT, 1920.

Sect. 1. [*Pensions for blind persons over* 50.]

Every blind person who has attained the age of fifty shall be entitled to receive and to continue to receive such pension as, under the Old Age Pensions Acts, 1908 to 1919,[2] he would be entitled to receive if he had attained the age of seventy, and the provisions of those Acts (including the provisions as to expenses, but excluding the provisions of section 10 (2) of the Old Age Pensions Act, 1908,[3] relating to the giving of notices by registrars of births and deaths) shall apply in all respects to such persons as if for the first statutory condition there were substituted a condition that the person must have attained the age of fifty, and be so blind as to be unable to perform any work for which eyesight is essential, and as if for references to "seventy" and "fifty" there were respectively substituted references to "fifty" and "thirty."[4]

Sect. 2. [*Power of local authorities to promote welfare of blind persons.*]

(1) It shall be the duty of the council of every county and every county borough, whether in combination with any other council or councils or otherwise, to make arrangements to the satisfaction of the Minister of Health for promoting the welfare of blind persons ordinarily resident within their area, and such council may for this purpose provide and maintain or contribute towards the provision and maintenance of workshops, hostels, homes, or other places for the reception of blind persons whether within or without their area and, with the approval of the Minister of Health, do such other things as may appear to them desirable for the purpose aforesaid. The Council shall, within twelve months after the passing of this Act, prepare and submit to the Minister of Health a scheme for the exercise of their powers under this section.

(2) The expenses incurred by a council under this section shall be defrayed in the case of a county council out of the county fund as expenses for general county purposes and in the case of a county borough council out of the borough fund or borough rate.[5]

(3) A council may borrow for the purposes of this section in the case of a county council in accordance with the Local Government

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(1) Omitted sections are: s. 3 (Amendment of Notification of Births Act, 1915 (5 & 6 Geo. V, c. 64), s. 3, which relates only to Scotland and Ireland), s. 4 (1), which gives above short title, and s. 4 (2) which relates only to Scotland and Ireland.

(2) As to these Acts, see Note to s. 11 of Act of 1929, *ante*, p. 52.

(3) 8 Edw. 7, c. 40, s. 10 (2).

(4) As to "schemes" for the blind, see s. 5 of Act of 1929, *ante*, p. 40. See also M. of H. Circular in 26 L.G.R. (Orders) 273 275.

(5) See s. 128 of Act of 1929, *ante*, p. 200.

Act, 1888, and in the case of a county borough council, in accordance with the Public Health Acts, 1875 to 1908,[1] but the money so borrowed by the council of a county borough shall be borrowed on the security of the borough fund or borough rate [and money borrowed for the purposes of this section shall not be reckoned as part of the debt of the council for the purposes of any provision limiting the powers of borrowing by the council].[2]

(4) A council may exercise any of the powers conferred by this section (other than the power of raising a rate or of borrowing money) through a committee of the council, and may appoint as members of the committee persons specially qualified by training or experience in matters relating to the blind who are not members of the council, but not less than two-thirds of the members of every such committee shall consist of members of the council, and a committee established under this section may, subject to any direction of the council, appoint such and so many sub-committees consisting either or partly of members of the committee, as the committee thinks fit.

(5) This section shall apply to the City of London as if it were a county borough and the common council were the council of a county borough, and any expenses of the common council under this section shall be defrayed out of the general rate.

(6) Nothing in this section shall affect the powers and duties of local education authorities under the Elementary Education (Blind and Deaf Children) Act, 1893,[3] or the Education Acts, 1870 to 1919,[4] and local education authorities in the exercise of their duty to contribute to the establishment of a national system of public education available for all persons capable of profiting thereby shall make or otherwise secure adequate and suitable provision for the technical education of blind persons ordinarily resident in their area who are capable of receiving and being benefited by such education.

(7) For the purposes of this section, a blind person who becomes an inmate of an institution for the blind after the commencement of this Act shall be deemed to continue to be ordinarily resident in the area in which he was ordinarily resident before he became an inmate of such institution.

Sect. 3. [*Charities for the blind.*]

(1) The War Charities Act, 1916,[5] shall apply to charities for the blind as if it were herein re-enacted and in terms made applicable to such charities, subject, however, to the following modifications :—

(*a*) The registration authority shall, as respects the City of London, be the common council of the City of London, and elsewhere the county council or county borough council;

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(1) See s. 69 of Act of 1888, *ante*, p. 294, and ss. 233, 234 of Act of 1875, *ante*, p. 284.

(2) Words in square brackets repealed by s. 137 of Act of 1929, see s. 74 of that Act, *ante*, p. 137.

(3) 56 & 57 Vict. c. 42, repealed by Education Act, 1921, 11 & 12 Geo. V, c. 51, s. 172, Sched. VII, and replaced by ss. 51–69 of that Act.

(4) Repealed by Act of 1921. As to " higher education," see ss. 70–79 of that Act.

(5) 6 & 7 Geo. 5, c. 43, set out in Glen's P.H. at pp. 2268–2270.

(*b*) Notwithstanding anything in section 2 (3) of the Act, the registration authority may refuse to register a charity if they are satisfied that its objects are adequately attained by a charity registered under the Act;

(*c*) Notwithstanding anything in section 4 of the Act, the fee payable on registration of a charity may exceed ten shillings, but shall not exceed two guineas;

(*d*) Regulations made by the Charity Commissioners under section 4 of the Act shall be subject to the approval of the Minister of Health instead of a Secretary of State;

(*e*) Where a charity is removed from the register, the Charity Commissioners may exercise, in relation to the charity, any powers which they are authorised by section 6 of the Act to exercise in relation to charities registered under the Act for the purposes of an appeal thereunder; and

(*f*) Where any of the conditions mentioned in section 3 of the Act are not complied with in respect of any registered charity, any person who, by regulations made under section 4 of the Act, may be made responsible for the observance of those conditions shall be guilty of an offence against the Act.

(2) Regulations may be made by the Charity Commissioners subject to the approval of the Minister of Health for providing that in the case of any charities for the blind which have, before the passing of this Act, been registered under the War Charities Act, 1916, the registration under that Act shall have effect as registration by the appropriate registration authority under this Act and for making such consequential provisions as may be necessary for that purpose.

(3) In this section "charity for the blind" means any fund, institution, or association (whether established before or after the commencement of this Act) having or professing to have for its object or for one of its objects the provision of assistance in any form to blind persons or any other charitable purpose relating to blind persons, but shall not include any fund, institution, or association where any such object as aforesaid is subsidiary only to the principal purposes of the charity.

* * * *[1]

THE PUBLIC HEALTH (TUBERCULOSIS) ACT, 1921.

Sect. 1. [*Further provision with respect to arrangements for treatment.*]

(1) Where the council of any county or county borough has, before the passing of this Act, made arrangements for the treatment of

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(1) Of the remaining sections, s. 4 relates to Scotland and Ireland, and s. 5 gives the above short title, and provides that the Act "shall come into operation on the 10th September, 1920."

persons suffering from tuberculosis (including persons insured under the National Health Insurance Acts, 1911 to 1920) at or in dispensaries, sanatoria, and other institutions in accordance with a scheme approved by the Local Government Board or the Minister of Health, that council shall, for the purposes of this Act, be deemed to have made adequate arrangements for the treatment of tuberculosis so long as such scheme, with such modifications, if any, as the Minister may on the application of the council from time to time approve, continues in operation.[1] In the application of this subsection to Wales an agreement made with the King Edward the Seventh Welsh National Memorial Association, and approved by the Welsh Insurance Commissioners or the Minister of Health, shall be treated as equivalent to a scheme approved by the Minister of Health, and an application made by that association with the approval of a council shall be deemed to be an application of the council.

(2) Where the council of any county or county borough fails to make adequate arrangements for the treatment of tuberculosis at or in dispensaries, sanatoria, and other institutions approved by the Minister, the Minister may, after giving the council an opportunity of being heard, make such arrangements as he may think necessary for the purpose of such treatment. Any expenses incurred by the Minister in arranging for such treatment may be paid in the first instance by the Minister out of moneys provided by Parliament, and the amount of any expenses certified by the Minister to have been so incurred shall be paid to the Minister on demand by the council and shall be recoverable as a debt due to the Crown. [This subsection shall not apply in the case of any council which at the date of the passing of this Act is deemed to have made adequate arrangements as aforesaid and which fails to continue to make such arrangements by reason only of the withdrawal of, or diminution in the rate of, the contributions made from the Exchequer before the passing of this Act to the councils of counties and county boroughs in aid of the treatment of tuberculosis.]

Note.

TUBERCULOSIS.—*The present Act is referred to in sect.* 5 (1) (f) *of the Act of* 1929, *as to "schemes."*[2] *The words in square brackets in subsect.* (2) *are repealed by s.* 137 *of the Act of* 1929.

PREVENTION AND TREATMENT OF DISEASE.—*The Public Health (Prevention and Treatment of Disease) Act,* 1913,[3] *provides as follows :* "1. *Notwithstanding the provisions of sect.* 281 *of the Public Health Act,* 1875,[4] *the* [*Minister of Health*] *may by order authorise a local*

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(1) For National Insurance Acts, see Glen's P.H. at pp. 2232–2240, and, for works dealing exclusively with these Acts, "Watts on National Insurance," 1913 Edition; "Clarke's National Insurance," 1913 Edition; Aggs' "National Health Insurance Act, 1924"; and Sweet & Maxwell's "National Health Insurance Statutes, Regulations and Orders," 1925 Edition. See Acts of 1911 and 1918, *post* p. 332 (1) (2), 1913, 3 & 4 Geo. V, c. 37; 1920, 10 & 11 Geo. V, c. 30; and 1924, 14 & 15 Geo. V, c. 38.

(2) *Ante*, p. 40.

(3) 3 & 4 Geo. V, c. 23, ss. 1–4.

(4) 38 & 39 Vict. c. 55, s. 281, as to forming united districts by provisional order, see Glen's P.H. at p. 726.

authority having jurisdiction in any part of a united district to exercise in relation to that part any powers which the joint board are also authorised to exercise, subject, however, to such conditions and restrictions as may be imposed by the order. 2. *The [Minister of Health] shall have power to declare that one of the authorities to execute and enforce regulations made by the [Minister] under sect.* 130 *of the Public Health Act,* 1875,[1] *with a view to the treatment of persons affected with cholera or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, shall be the council of a county, and that section shall have effect accordingly as if a county council were an authority within the meaning of that section : Provided that, except in case of emergency, the [Minister of Health] shall not require the council of a county to execute and enforce any such regulations without the consent of such council.* 3. *It shall be lawful for the council of any county or for any sanitary authority to make any such arrangements as may be sanctioned by the [Minister of Health] for the treatment of tuberculosis : Provided that the power conferred by this section shall be in addition to and not in derogation of any other power.* 4. *Any expenses incurred under this Act shall, in the case of a sanitary authority be defrayed as part of the expenses incurred by them in the execution of the Public Health Acts, and in the case of a county council as expenses for general county purposes, or, if the [Minister of Health] by order so [directs], as expenses for special county purposes charged on such part of the county as may be provided by the order.*"

Sect. 2. [*After-care by councils of counties and county boroughs.*]

Without prejudice and in addition to any other power, whether under this or any other Act, every council of a county or county borough shall have power to make such arrangements as they may think desirable for the after-care of persons who have suffered from tuberculosis (including persons for the time being insured under the National Insurance Act, 1911, as amended or extended by any past or future enactment), and the provisions of this Act relating to committees and joint committees shall extend accordingly as though in those provisions the expression "treatment of tuberculosis" included such after-care.

Sect. 3. [*Approval of institutions.*]

Any approval by the Minister of Health of an institution for the treatment of tuberculosis may be given for such time and subject to such conditions as the Minister may think fit, and the Minister shall have power to withdraw any such approval.

Sect. 4. [*Power to act through committees.*]

The powers of a county or county borough council in relation to the treatment of tuberculosis (other than the power of raising a rate or of

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(1) 38 & 39 Vict. c. 55, s. 130, as to regulations by M. of H. *re* epidemic, etc., diseases, see Glen's P.H. at pp. 248–251.

borrowing money) may be exercised through a committee of the council or through a sub-committee of any committee, and the council and, subject to any directions of the council, the committee may appoint as members of the committee or sub-committee, as the case may be, persons (including members of insurance committees) who are not members of the council, being persons specially qualified by training or experience in matters relating to the treatment of tuberculosis, but not less than two-thirds of the members of such committee or sub-committee shall consist of members of the council.

Sect. 5. [*Joint committees.*]

(1) For the purpose of facilitating co-operation between county councils and county borough councils in the exercise of the powers conferred upon them by any enactment to make arrangements for the treatment of tuberculosis, the Minister may by order, with the consent of the councils concerned, make such provision as appears to him necessary or expedient, by the constitution of joint committees or otherwise, for the joint exercise by such councils of all or any of their powers in relation thereto, and any such order may provide how, in what proportions, and out of what funds or rates, the expenses incurred by such councils are to be defrayed, and may contain such consequential, incidental, and supplemental provisions as may appear necessary for the purposes of the order.

(2) Every such joint committee shall be a body corporate by such name as the order constituting the committee may direct, and shall have perpetual succession and a common seal, and may hold land for the purpose of their powers and duties without licence in mortmain.

(3) Any joint committee constituted under any enactment repealed by this Act shall continue in existence and have all the powers which may be exercised by any joint committee constituted under this section, and any order constituting such joint committee shall continue in force and have effect accordingly.

Sect. 6. [*Powers of Metropolitan Asylums Board.*]

The managers of the Metropolitan Asylums District may, with the approval of the Minister of Health, enter into agreements with the council of any county or county borough for the reception of persons suffering from tuberculosis in hospitals or sanatoria provided by the managers.[1]

Sect. 7. [*Further provision with respect to treatment of seamen.*]

(1) The Minister may by order constitute an advisory committee for the purpose of assisting the council of any county or county borough in making arrangements for the treatment of any persons suffering from tuberculosis who are masters, seamen, or apprentices to the sea service or the sea-fishing service.

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(1) See Act of 1929, s. 18 (*e*), *ante*, p. 61.

(2) An order under this section may provide—(*a*) For the representation on the said committee of any society approved under the National Health Insurance Acts, 1911 to 1920, more than three-fourths of whose members are such masters, seamen and apprentices as aforesaid, and of the council of any county or county borough having a substantial number of such masters, seamen, and apprentices resident within their area, and may contain such other provisions as may appear necessary to the Minister for giving effect to the order; and (*b*) If the governing body constituted under section 48 (6) of the National Insurance Act, 1911,[1] as amended by section 27 of the National Health Insurance Act, 1918,[2] agree to contribute, out of the special fund referred to in the said subsection (6), towards the expenses of the said committee, for the appointment by the governing body aforesaid from among their own members of the representatives on the said committee of all such societies as aforesaid.

(3) An order made under this section may be revoked or varied by another order so made.

Sect. 8. [*Expenses.*]

(1) Any expenses incurred under this Act by a county council shall be defrayed as expenses for general county purposes, or, if the Minister of Health by order so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order.

(2) Any expenses incurred under this Act by the council of a county borough shall be defrayed as part of the expenses of the council in the execution of the Public Health Acts, 1875 to 1908.

Sect. 9. [*Short title, repeal,*[3] *and application.*[4]]

THE ROADS IMPROVEMENT ACT, 1925.

Sect. 1. [*Planting of trees and laying out of grass margins in highways.*]

(1) The Minister of Transport (hereinafter referred to as the Minister) and any county council or other highway authority shall have power to cause trees or shrubs to be planted and grass margins to be laid out in any highway maintainable by him or them respectively; and to erect and maintain guards or fences and otherwise to do anything expedient for the maintenance or protection of such trees, shrubs and grass margins.[5]

(2) No such tree, shrub, grass margin, guard or fence shall be placed, laid out or allowed to remain in such a situation as to hinder the reasonable use of the highway by any person entitled to the use thereof, or so as to be a nuisance or injurious to the owner or occupier of any land or premises adjacent to the highway.

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(1) 1 & 2 Geo. V, c. 55, s. 48 (6). (2) 7 & 8 Geo. V, c. 62, s. 27.

(3) N.I. Act, 1911 (1 & 2 Geo. V, s. 55), s. 64 (3); L.G. (Em. P.) Act, 1916 (6 & 7 Geo. V, c. 12), s. 16.

(4) Not to Scotland or Ireland.

(5) See also s. 2, *infra*, and P.H. Act, 1890, s. 43, *ante*, p. 288, and case there cited.

(3) The powers conferred by this section shall not be exercised by the Minister, or any county council or other highway authority except in a highway vested in him or them respectively, or upon land so vested which forms part of a highway.

(4) Where an urban authority incurs expenses under this section in connection with a main road which is maintained and repaired by that authority pursuant to section 11 (2) of the Local Government Act, 1888,[1] the expenses shall not be treated as part of the costs towards which the county council are required to make an annual payment under that subsection except where and so far as the county council consent to their being so treated.

(5) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person shall, unless the damage was caused or contributed to by his negligence, be entitled to recover compensation therefor from the Minister, county council or other highway authority by whom the powers were exercised.

(6) For the purposes of section 7 of the Telegraph Act, 1878,[2] any work done in exercise of the powers conferred by this section shall be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament, and any county council or highway authority carrying out the work shall be deemed to be the undertakers.

Sect. 2. [*Amendment of s.* 8 *of* 9 *Edw. VII, c.* 47.]

For the purposes of Part II of the Development and Road Improvement Funds Act, 1909, the expression "improvement of roads" shall, in addition to the matters specified in section 8 (5) of that Act, include the planting, laying out, maintenance and protection of trees, shrubs and grass margins in and beside roads, the placing on or near roads of notices, milestones and sign posts, the freeing of roads from tolls, and the prescription of building lines along roads.

Note.

ACT OF 1909.—*Part II of the Development and Road Improvement Funds Act,* 1909,[3] *contains sect.* 7 *as to the Constitution of the Road Board whose powers, etc., are now vested in the Ministry of Transport,*[4] *and the following sections :—*

By sect. 8,[5] " (1) *The* [*Minister of Transport*] *shall have power, with the approval of the Treasury*—(a) *to make to any highway authority advances in respect of the construction of new roads or the maintenance or improvement of existing roads, or to make such advances, in conjunction*

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[1] Now repealed, see *ante*, p. 287 (4).

[2] Set out *post*, p. 352.

[3] 9 Edw. VII, c. 47, ss. 7–17. See Glen's P.H. at pp. 2217–2221 B.

[4] M. of T. Act, 1919 (9 & 10 Geo. V, c. 50), s. 2. See Glen's P.H. at pp. 2315–2333.

[5] As amended by Roads Act, 1920 (10 & 11 Geo. V, c. 72) s. 4, Sched. I.

with a highway authority, to any company or persons; (b) *to construct and maintain any new roads; which appear to the [Minister] to be required for facilitating road traffic.*

(2) *Where advances have been made to highway authorities in respect of the construction of new roads, the [Minister of Transport] may, where [he thinks] it desirable, also contribute towards the cost of maintenance of such new roads.*

(3) *The sums expended by the [Minister of Transport] out of income on the construction of new roads or the acquisition of land, or in respect of any loan raised for any such purpose, shall not in any year exceed one-third of the estimated receipts of the [Minister of Transport] for that year.*

(4) *An advance to a highway authority may be either by way of grant or by way of loan, or partly in one way and partly in the other, and shall be upon such terms and subject to such conditions as the [Minister thinks] fit.*

(5) *For the purposes of this Part of this Act the expression "improvement of roads" includes the widening of any road, the cutting off the corners of any road where land is required to be purchased for that purpose, the levelling of roads, the treatment of a road for mitigating the nuisance of dust, and the doing of any other work in respect of roads beyond ordinary repairs essential to placing a road in a proper state of repair; and the expression " roads " includes bridges, road-ferries, footways, viaducts, and subways.*

By sect. 9, " (1) *Every road constructed by the [Minister of Transport] under the provisions of this Part of this Act shall be a public highway, and the enactments relating to highways and bridges shall apply to such roads accordingly, except that every such road shall be maintainable by and at the cost of the [Minister of Transport], and, for the purpose of the maintenance, repair, improvement, and enlargement of or dealing with any such road, the [Minister] shall have the same powers (except the power of levying a rate) and be subject to the same duties as a county council have and are subject to as respects main roads, and may further exercise any powers vested in a county council for the purposes of the maintenance and repair of bridges, and the [Minister of Transport] shall have the same powers as a county council for the preventing and removing of obstructions:*

Provided that—(a) *Communications between a road or path and a road constructed by the [Minister of Transport] shall be made in manner to be approved by the [Minister of Transport];* and (b) *The [Minister of Transport] and any highway authority in whose district any part of any such road is situate may contract for the undertaking by such authority of the maintenance and repair of the part of such road in their district; and, for the purposes of such undertaking, the highway authority shall have the same powers and be subject to the same duties and liabilities as if the road were a road vested in the highway authority.*

(2) *Before the Treasury approve of the construction of a new road by the [Minister of Transport], they shall consult with the [Minister of Health]*

and shall satisfy themselves that notice of the intention to construct the road has been sent by the [Minister of Transport] to every highway authority in the area of which any part of the proposed road will be situate, and shall consider any objections to the proposed road which they may receive from any such authority."

By sect. 10, " (1) *Where the [Minister of Transport makes] an advance to a highway authority in respect of the construction of a new road, the [Minister] may authorise the authority to construct the road, and where so authorised the highway authority shall have power to construct the road and to do all such acts as may be necessary for the purpose, and any expenses of the authority, so far as not defrayed out of the advance, shall be defrayed as expenses incurred by the authority in exercise of their powers as highway authority, and the enactments relating to such expenses, including the provisions as to borrowing, shall apply accordingly.*

(2) *Where the highway authority to whom the advance is made are a county council, the new road, when constructed, shall be a main road and in any other case shall be a highway repairable by the inhabitants at large : Provided that the maintenance of any such road within the administrative county of London shall devolve upon the local authority responsible for the maintenance of streets and roads in whose district the same is situate.*

By sect. 11, *as amended by the Act of* 1920,[1] " (1) *Where the Minister proposes to construct a new road under this Part of this Act, the [Minister] may acquire land for the purpose, and may, in addition, acquire land on either side of the proposed road within two hundred and twenty yards from the middle of the proposed road.* * * *[2]

(3) *Where a highway authority are authorised to construct a new road under this part of this Act, or an advance is made to such an authority in respect of the improvement of an existing road, the authority may acquire land for the purpose of such construction or improvement.*

(4) *For the purpose of the purchase of land by agreement under this Part of this Act by the [Minister of Transport] or a highway authority the Lands Clauses Acts shall be incorporated with this Part of this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and sect.* 178 *of the Public Health Act,* 1875,[3] *shall apply as if the [Minister of Transport] and the highway authority were referred to therein.*

(5) *Where the [Minister of Transport] or any highway authority are unable to acquire by agreement on reasonable terms any land which they consider necessary, they may apply to the Development Commissioners for an order empowering them to acquire the land compulsorily in accordance with the provisions of the Schedule to this Act, and the Commissioners shall have power to make such an order : Provided that the provisions of*

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(1) See footnote (5), *ante*, p. 333.

(2) Subsect. (2) related to offices for the Road Board.

(3) Set out *ante*, p. 281.

Part I of this Act, prohibiting the compulsory acquisition of the classes of land mentioned in [subsect. (2)] *of sect.* 5 *of this Act shall apply to the acquisition by the [Minister of Transport] of land on either side of a road proposed to be constructed by the [Minister].*[1]

(6) *The [Minister of Transport] shall have full power, with the approval of the Treasury, to sell, lease, and manage any land acquired by them under this Part of this Act and not required for the new road, and any receipts derived from any such land, so far as they are applied for the purposes of the construction of new roads, shall not be treated as part of the expenditure of the [Minister of Transport] on new roads for the purpose of the provisions of this Act limiting the amount of expenditure of the [Minister of Transport] on new roads."*

By sect. 5 (2),[2] "*no land shall be authorised by an order under this section to be acquired compulsorily which, at the date of the order, forms part of any park, garden, or pleasure ground, or forms part of the home farm attached to and usually occupied with a mansion house, or is otherwise required for the amenity or convenience of any dwelling-house, or which at that date is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or is the site of an ancient monument or other object of archæological interest." This prohibition does not prevent the acquisition of such lands for the site of the road itself, but only for the abutting or bordering strip referred to in subsect.* (1) *of sect.* 11, *as to which see also s.* 19 (1) (*c*), infra.

With regard to commons, open spaces, and allotments, see sect. 19 *and Sched.* (3) *of Act of* 1909, *and sect.* 3 *of Act of* 1925, *both* infra.

Sect. 12 *relates to the Minister's expenses and receipts, sect.* 13 *to his power to borrow, and sect.* 14 *to his annual report to Parliament, and, by sect.* 15, "*For the purposes of this Part of this Act the expression 'highway authority' includes, as respects the administrative county of London, the London County Council." Sects.* 16 *and* 17 *relate to Scotland and Ireland.*

Part III of the Act of 1909,[3] *provides, by sect.* 18, *that,* "*in approving, executing, or making advances in respect of the execution of any work under this Act involving the employment of labour on a considerable scale, regard shall be had so far as is reasonably practicable to the general state and prospects of employment.*" [4]

By sect. 19, " (1) *Where an order made by the Development Commissioners under Part I or Part II of this Act authorises the acquisition of any land forming part of any common, open space, or allotment, the order, so far as it relates to the acquisition of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament,*

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(1) The mistake, as to s. 5 (2), set out *infra*, was corrected by an Act of 1910, 10 Edw. VII. c, 7, s. 3.

(2) 9 Edw. VII, c. 47, s. 5 (2).

(3) 9 Edw. VII, c. 47, ss. 18–20. The short title is given by s. 20.

(4) See the Unemployment (Relief Works) Act, 1920 (10 & 11 Geo. V, c. 57) in Glen's P.H. at pp. 2350–2354.

except where the order provides for giving in exchange for such land other land, not being less in area, certified by the [Minister] of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights, and to the public : [1]

Provided that—(a) *This provision shall not apply to the acquisition of any common land for the purpose of forestry, if the order provides for the granting to the public of reasonable access to the land for air, exercise, or recreation unless the land has been dedicated to the public use and enjoyment or is a metropolitan common within the terms of the Metropolitan Commons Act*, 1866, *or is a suburban common as defined by the Commons Act*, 1876, *or is subject to a scheme of regulation made in pursuance of the Metropolitan Commons Acts*, 1866 *to* 1898, *or the Inclosure Acts*, 1845 *to* 1899, *or to a private or local Act of Parliament ; and* (b) *This provision shall not apply to the acquisition of any common land for the purpose of the construction of a new road or the improvement of an existing road within a rural district ; and* (c) *Nothing in this Act shall authorise the acquisition of land on either side of a new road to be constructed by the [Minister of Transport] where the land forms part of a common, open space, or allotment.*[2]

(2) *Before giving any such certificate of equality of exchange, the [Minister] of Agriculture and Fisheries shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.*

(3) *Where any order of the Development Commissioners authorises such an exchange, the order shall provide for vesting the land given in exchange in the persons in whom the common, open space, or allotment was vested, subject to the same rights, trusts, and incidents as attached to the common, open space, or allotment, and for discharging the part of the common, open space, or allotment acquired from all rights, trusts, and incidents to which it was previously subject.*

(4) *For the purposes of this Act the expression 'common' shall include any land subject to be enclosed under the Inclosure Acts*, 1845 *to* 1882, *and any town or village green ; the expression 'open space' means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground ; and the expression 'allotment' means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.*"

MEANING OF "COMMON."—*Many Acts define the expression "common" by reference to land subject to inclosure under the Inclosure Acts without further definition. By sect.* 11 *of the Inclosure Act*, 1845,[3] "*all such lands as are hereinafter mentioned shall be land subject to be enclosed under this Act.*" *The lands mentioned in the section are :* "*All lands subject to any rights of common whatsoever, and whether such rights may be exercised*

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[1] See definitions, *infra*.

[2] See Act of 1925, s. 3, *post*, p. 341.

[3] 8 & 9 Vict. c. 118 s.11.

or enjoyed at all times, or may be exercised or enjoyed only during limited times, seasons, or periods, or be subject to any suspension or restriction whatsoever in respect of the time of the enjoyment thereof ; all gated and stinted pastures in which the property of the soil or of some part thereof is in the owners of the cattle gates or other gates or stints, or any of them ; and also all gated and stinted pastures in which no part of the property of the soil is in the owners of the cattle gates or other gates or stints, or any of them ; all land held, occupied, or used in common, either at all times or during any time or season, or periodically, and either for all purposes or for any limited purpose, and whether the separate parcels of the several owners of the soil shall or shall not be known by metes bounds or otherwise distinguishable ; all land in which the property or right of or to the vesture or herbage, or any part thereof, during the whole or any part of the year, or the property or right of or to the wood or underwood growing and to grow thereon is separated from the property of the soil ; and all lot meadows and other lands the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise." By sect. 12 *of the same Act,*[1] *" no waste land of any manor on which the tenants of such manor have rights of common, nor any lands whatsoever subject to rights of common which may be exercised at all times of every year for cattle levant and couchant upon other land, or to any rights of common which may be exercised at all times of every year, and which shall not be limited by number or stints, shall be inclosed under this Act without the previous authority of Parliament in each particular case as hereinafter provided." By sect.* 1 *of the Act of* 1852,[2] *" no land " is to be enclosed without the authority of Parliament as provided with reference to the waste and other lands mentioned in sect.* 12 *of the Act of* 1845. *By sect.* 13 *of the Act of* 1845,[3] *" no part of the New Forest in the county of Southampton, or of the Forest of Dean in the county of Gloucester, shall be land subject to be inclosed under this Act." By sect.* 14,[4] *" no lands situate within " certain distances of towns could be " inclosed under the provisions of this Act without " the authority of Parliament, but this section has no particular effect in view of sect.* 1 *of the above Act of* 1852. *By sect.* 15 *of the Act of* 1845,[5] *town and village greens were excepted, but they are expressly added in subsect.* (4) supra. *The definition of common therefore includes these greens and all lands specified in sects.* 11 *and* 12, *but not the New Forest or the Forest of Dean.*

As to the other Inclosure Acts,[6] *these relate mainly to procedure and*

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(1) 8 & 9 Vict. c. 118, s. 12.

(2) 15 & 16 Vict. c. 79, s. 1.

(3) 8 & 9 Vict. c. 118, s. 13. Two commons in the Forest of Dean have since been enclosed under the Forest of Dean Act, 1866 (29 & 30 Vict. c. 70).

(4) 8 & 9 Vict. c. 118, s. 14.

(5) *Ibid.*, s. 15.

(6) Namely, 1846 (9 & 10 Vict. c. 70), 1847 (10 & 11 Vict. c. 111), 1848 (11 & 12 Vict. c. 99), 1849 (12 & 13 Vict. c. 83), 1851 (14 & 15 Vict. c. 53), 1852 (see footnote (2), *supra*), 1854 (see footnote (1), *post*, p. 339), 1857 (20 & 21 Vict. c. 31, s. 12 of which contains provisions as to " rubbish," etc., on town and village greens, and is set out in Glen's P.H. at p. 175), 1859 (22 & 23 Vict. c. 43), 1868 (31 & 32 Vict. c. 89), 1876 (39 & 40 Vict. c. 56, s. 37 of which defines " common " as " any land subject to be enclosed under the Inclosure Acts, 1845 to 1868 "), 1878 (41 & 42 Vict. c. 56), 1879 (42 & 43 Vict. c. 37) and 1882 (45 & 46 Vict. c. 15).

expenses and do not enlarge the scope of land which may be enclosed under the Act of 1845, *except that, by sect.* 3 *of the Act of* 1854,[1] "*the word 'land' shall extend to and include incorporate as well as corporate hereditaments, and any undivided share thereof.*" *Sect.* 15 *of the Commons Act*, 1899,[2] *which is to be* "*read with the Inclosure Acts,* 1845 *to* 1882," [3] *contains the same definition of* "*common.*"

MEANING OF "OPEN SPACE."—*Sect.* 20 *of the Open Spaces Act*, 1906,[4] *defines* "*disused burial ground*" *as meaning* "*any burial ground which is no longer used for interments, whether or not the ground has been partially or wholly closed for burials under the provisions of a statute or Order in Council.*" *The words* "*no longer*" *do not mean that the land must at some time have been used for interments,*[5] *but land acquired for burials and found unsuitable and exchanged is not a disused burial ground.*[6]

MEANING OF "ALLOTMENT."—*As to fuel and field garden allotments, see sects.* 19 *and* 21 *to* 28 *of the Commons Act*, 1876.[7]

COMPULSORY ACQUISITION.—*The Schedule to the Act of* 1909,[8] *enacted by sect.* 11 (5), *contains the following provisions as to the compulsory acquisition of land :—*

(1) *Where a Government Department, body, or persons to whom an advance is made under Part I of this Act, or the* [*Minister of Transport*] *or a highway authority (in this Schedule referred to as* "*the undertakers*") *propose to purchase land compulsorily under this Act, the undertakers may submit to the Development Commissioners a draft order putting in force, as respects the lands specified in the order, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.*

(2) *The order shall be in the prescribed form and shall contain such provisions as the Development Commissioners may prescribe for the purpose of carrying the order into effect, and shall incorporate the Lands Clauses Acts and sects.* 77 *to* 85 *of the Railways Clauses Consolidation Act*, 1845,[9] *or* . . . [Scotland], *and those Acts shall apply accordingly, subject to the following modifications :—*

(a) *Any question of disputed compensation shall be determined by a single arbitrator, who shall be appointed, and whose remuneration shall be fixed, as respects England, by the Lord Chief Justice of England,* . . . [Scotland and Ireland] *and the arbitrator so appointed shall be deemed to be an arbitrator within the meaning of those Acts ;*[10]

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[1] 17 & 18 Vict. c. 97, s. 3. [2] 62 & 63 Vict. c. 30, s. 15. [3] See *ibid.*, s. 24.

[4] 6 Edw. VII, c. 25, s. 20.

[5] *London C.C.* v. *Greenwich B.C.*, L.R. 1929, 1 Ch. 305.

[6] *Nicholl* v. *Llantwit Major P.C.*, L.R. 1924, 2 Ch. 214; 93 L.J. Ch. 602; 131 L.T. 634. For earlier cases, see Glen's P.H. at pp. 840, 841. As to building on disused burial grounds, see the *L.C.C. Case* cited, *post*, p. 348 (1).

[7] 39 & 40 Vict. c. 56, ss. 19, 21-28, as to which see Glen's P.H. at pp. 1461–1463.

[8] 9 Edw. VII, c. 47, Sched.

[9] 8 Vict. c. 20, ss. 77–85, set out in Glen's P.H. at pp. 1612, 1613.

[10] See, now, Acq. of Lands Act of 1919 (9 & 10 Geo. V, c. 57), set out in Glen's P.H. at pp. 2334–2338.

(b) *An arbitrator so appointed may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow, as costs of the arbitration, the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers have been caused or incurred unnecessarily ;*

(c) *In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase being compulsory, and the arbitrator shall have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed work or road for which the land is authorised to be acquired by the undertakers ;*

(d) *The provisions of the Lands Clauses Acts as to the sale of superfluous land shall not apply.*

(3) *The draft order shall be published by the undertakers in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners, lessees, and occupiers of that land as may be prescribed, and in the case of land forming part of a common, open space, or allotment, also to the [Minister] of Agriculture and Fisheries.*

(4) *An order authorising the acquisition of any buildings may, if a portion only of those buildings are required for the purposes of the undertakers, notwithstanding anything in the Lands Clauses Acts, require the owners of and other persons interested in those buildings to sell and convey to the undertakers the portions only of the buildings so required, if the arbitrator is of opinion that such portions can be severed from the remainder of the properties without material deteriment thereto, and, in such case, the undertakers shall not be obliged to purchase the whole or any greater portion thereof, and shall pay for the portions acquired by them and make compensation for any damage sustained by the owners thereof or other parties interested therein by severance or otherwise.*[1]

(5) *An order may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired.*

(6) *Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice* . . . [Scotland and Ireland].

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(1) This is a modification of Act of 1845 (8 Vict. c.18), s. 92.

(7) *In construing, for the purposes of this Schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the undertakers shall be deemed to be the promoters of the undertaking, and the expression " land " shall include easements, in or relating to land.*

(8) *In this Schedule the expression " prescribed " means prescribed by the Development Commissioners, and . . .* [Scotland].

Sect. 3. [*Acquisition of land to be given in exchange for common land, &c.*]

Where under Part II of the Development and Road Improvement Funds Act, 1909, a new road is constructed, or an advance is made in respect of the construction or improvement of a road, and land forming part of any common, open space, or allotment, is under any enactment acquired, or proposed to be acquired, for the purposes of such construction or improvement, if any land is required for the purpose of being given in exchange for such land, the land required to be given in exchange shall be deemed to be required for the purpose of the construction or improvement of the road, and the provisions of section 11 of the said Act, as amended by any subsequent enactment, shall apply accordingly.[1]

Sect. 4. [*Prevention of obstruction to view at corners.*]

(1) Where the Minister or any county council or other highway authority is of opinion that it is necessary for the prevention of danger arising from obstruction to the view of persons using the highway to impose restrictions with respect to any land at or near any corner or bend in a highway maintainable by him or them, respectively, the Minister, county council, or other highway authority may serve a notice—

(*a*) upon the owner or occupier of the land directing him to alter the height or character of any wall (not being a wall forming part of the structure of a permanent edifice), fence, or hedge thereon so as to cause it to conform with any requirements specified in the notice; or

(*b*) upon every owner, occupier and lessee of the land restraining them either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence, or hedge to be erected or planted on the land :[2]

Provided that—(i) there shall be annexed to any notice served under this section a plan showing the land to which the notice relates; and (ii) a notice restraining the erection of any building upon land shall not be served by the Minister or any county council or other highway authority except with the consent of the local authority for the district in which the land is situated; and (iii) the owner or occupier of any land shall not be restrained by a notice served under this section from executing or permitting the reconstruction or repair in such manner as not to create any new obstruction to the view of persons using the highways adjacent to the land of any building which was upon the land before the service of the notice.

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(1) See s. 11 of Act of 1909, and Notes, *ante*, pp. 335 *et seq.*

(2) See definitions, *post*, p. 348.

(2) Any restrictions imposed by a notice served under this section shall come into force upon the service of the notice and shall remain in force until the notice is withdrawn by the Minister, county council, or other highway authority by whom it was served, and any such restrictions shall, while in force, be binding upon any successor in title to the owner or occupier of the land to which they relate unless he proves that when he became the owner or occupier of the land he had, after making due inquiries, no reasonable cause to suspect that any such restrictions were in force.

(3) If any person upon whom a notice has been served under this section objects to comply with any requirement of the notice, or objects to any restriction imposed thereby, he may, within fourteen days after receipt of the notice, send his objection in writing, stating the grounds thereof, to the authority by whom the notice was served, and thereupon the question whether the notice shall be withdrawn as respects any requirement or restriction objected to shall be determined in the manner provided by this Act.

(4) Any person upon whom a notice is served under this section shall have power, notwithstanding anything in any conveyance or in any lease or other agreement, to do all such things as may be necessary for complying with the requirements of the notice.

(5) Where notice has been served upon any person under this section, the Minister, county council, or other highway authority by whom the notice was served may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.

(6) Subject to the provisions of this section, if any person upon whom a notice has been served under this section fails to comply with the requirements of, or acts in contravention of, the notice, he shall, without prejudice to any other proceedings which may be taken against him, be guilty of an offence and shall be liable on summary conviction thereof to a penalty not exceeding five pounds, and any person so convicted shall within such time as the court may allow do all such things as may be necessary to conform to the requirements or restrictions imposed by the notice, and if he fails to do so he shall be deemed to commit a continuing offence, and shall be liable on summary conviction thereof to a penalty not exceeding forty shillings for each day upon which such failure continues.

(7) Any person upon whom a notice is served under this section shall be entitled to recover from the Minister, county council, or other highway

authority by whom the notice was served any expenses reasonably incurred by him in carrying out any directions contained in the notice; and any person sustaining loss in direct consequence of any requirement of a notice served under this section, or any person who proves that his property is injuriously affected by restrictions imposed by any such notice shall, if he makes a claim within six months after the service of the notice, be entitled to recover from the Minister, county council, or other highway authority by whom the notice was served compensation for the injury sustained.

(8) The improvement of a road by a county council or other highway authority in exercise of their powers under this section shall, whether or not land is required to be purchased for the purpose, be deemed to be an improvement in respect of which the Minister is empowered to make advances under section 8 of the Development and Road Improvement Funds Act, 1909,[1] as amended by any subsequent enactment.

(9) Nothing in this section shall—(*a*) authorise the service of a notice under this section with respect to any wall forming part of an ancient monument or other object of archæological interest, except with the consent in writing of the Commissioners of Works;[2] or (*b*) apply with respect to any wall belonging to a railway company or to the owners, trustees, or conservators acting under powers conferred by Parliament of any canal, inland navigation, dock, or harbour where the wall forms part of or is necessary for the maintenance of their railway, canal, inland navigation, dock, or harbour.[3]

Sect. 5. [*Prescription of building lines.*]

(1) Subject to the provisions of this section a county council or other highway authority may by resolution prescribe in relation to either side of any part of a highway maintainable by them a frontage line for building (in this section referred to as "a building line"): Provided that—

(*a*) the Minister may by order direct that a building line shall not be prescribed under this section in relation to any class of road classified by him under section 17 (2) of the Ministry of Transport Act, 1919,[4] until notification of the building line proposed has been sent to him and his observations with respect thereto have been considered; and

(*b*) before a building line is prescribed under this section—(i) affecting any main road maintainable by an urban authority by virtue of the provisions of section 11 (2) of the Local Government Act, 1888,[5] notification of the building line proposed to be prescribed shall be sent to the council of any county in which any land proposed to be affected is situated; or (ii) by any county council, notification of the building line proposed to be prescribed shall be sent to the local authority for every district in which any land proposed to be affected is situated, and to every authority for the time being authorised to make a scheme under the Town Planning Act, 1925,[1] or under any enactment repealed by that Act, in respect of any such district, and any observations by an authority to whom notification has been sent as aforesaid, which are made within three months after the receipt of the notification shall be considered by the authority proposing to prescribe the building line.

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(1) Set out *ante*, pp. 333, 334.

(2) See Ancient Monuments Act of 1913 (3 & 4 Geo. V, c. 32), set out in Glen's P.H. at pp. 1528–1535, and extension of s. 19 by Advertisements Act of 1925 (15 & 16 Geo. V, c. 52), s. 1 (1).

(3) As to questions relating to notices under this section, and to claims for compensation, see s. 9, *post*, p. 347.

(4) As to "classified roads," see Note to s. 31 of Act of 1929, *ante*, p. 83.

(5) Now repealed, see *ante*, p. 287 (4).

(2) Any building line proposed to be prescribed and every building line prescribed under this section shall be distinctly marked and shown on plans to be signed by, and deposited with, the clerk of the authority prescribing the building line, and the said plans shall be at all reasonable times thereafter open for the inspection of the public without charge; and any county council or other highway authority prescribing a building line under this section—(*a*) before the building line is prescribed shall give notice in writing of the proposal to prescribe the building line and of the times and place at which the plans aforesaid can be inspected, by serving a notice in writing upon every owner, occupier and lessee of land proposed to be affected, and shall consider any objection to the proposal made within six weeks after the service of the notice; (*b*) within six weeks after the building line has been prescribed, shall cause the plan showing the building line to be sealed and authenticated by the signature of their clerk, and shall serve upon every owner, occupier and lessee of land affected a notice in writing of the prescription of the building line and of the times and place at which the said plan can be inspected.

(3) Where a building line prescribed under this section is in force it shall not be lawful, except with the consent of the authority by whom the building line was prescribed, to erect or make nearer to the middle of the highway than the building line any new building, other than a boundary wall or fence, or any permanent excavation below the level of the highway: Provided that the consent of a county council or other highway authority for the purpose of this subsection may be given subject to such conditions as the authority think fit to impose, and any conditions so imposed shall be binding upon any successor in title to the owner, occupier or lessee of any land to which they relate.

(4) If any person erects or makes, or permits to be erected or made, any new building, or permanent excavation in contravention of the provisions of this section, he shall, without prejudice to any other

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(1) 15 Geo. V, c. 16. See Glen's T.P., 1927.

proceedings which may be taken against him, be guilty of an offence and shall be liable on summary conviction thereof to a penalty not exceeding five pounds, and any person so convicted shall, within such time as the court may allow, remove any building erected, or fill in any excavation made in contravention of this section, and if he fails to do so he shall be deemed to commit a continuing offence, and shall be liable on summary conviction thereof to a penalty not exceeding forty shillings for each day upon which such failure continues.

(5) Any person who proves that his property is injuriously affected by the prescription of a building line under this section shall, if he makes a claim within six months after the prescription thereof, or in the case of an owner, occupier, or lessee, within six months after the service upon him of a notice of the prescription thereof, be entitled to recover from the county council or other highway authority by whom the building line was prescribed, compensation for the injury sustained, and any question whether compensation is payable under this section, or as to the amount of any compensation so payable, shall in default of agreement be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919:[1]

Provided that in determining any such question as aforesaid—(*a*) no compensation shall be payable to any person in respect of anything done by him or on his behalf after the date of the service upon him of a notice of the proposal to prescribe a building line, except in respect of anything done in pursuance of a contract made, or for the purpose of finishing a building begun, before that date; and (*b*) there shall be taken into account any benefit accruing to the person to whom compensation is payable, by reason of any improvement made or about to be made to the highway.

(6) In the administrative County of London the powers conferred by this section shall not be exercised except by the London County Council, and may be exercised by that council in relation to any highway, whether maintainable by them, by the Common Council of the City of London, or by a metropolitan borough council; and all expenses of the London County Council incurred under this section, so far as not defrayed out of any advance made by the Minister, shall be defrayed as expenses for general county purposes: Provided that the Common Council of the City of London and any metropolitan borough council may, as part of the general expenses of the council, pay or contribute towards the payment of any expenses incurred by the London County Council under this section.

(7) The powers conferred by this section shall be in addition to, and not in derogation of, any powers conferred by any other Act:[2]

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(1) 9 & 10 Geo. V, c. 57, see Glen's P.H. at pp. 2334–2338.

(2) See P.H. Act, 1925, ss. 33, 34 (as to "improvement lines"), *post*, p. 357.

Provided that a county council or other highway authority shall not, except with the consent of the Minister of Health and subject to any conditions imposed by him, exercise the powers conferred by this section with respect to any land to which a resolution having effect under section 2 of the Town Planning Act, 1925,[1] or under any corresponding enactment repealed by that Act, extends.

(8) Nothing in this section shall affect—(*a*) any right of statutory undertakers for gas, water, electricity, tramways or light railways, to make any excavation for the purpose of laying, altering, repairing or renewing any main, pipe, electric line, duct or other apparatus; or (*b*) any land belonging to a railway company or to the owners, trustees or conservators acting under powers conferred by Parliament, of any canal, inland navigation, dock or harbour where the land is held by them for the purposes of their railway, canal, inland navigation, dock or harbour, except in so far as they may consent thereto; or (*c*) any land specifically authorised by Parliament to be used by any statutory undertakers for the manufacture or storage of gas, the generating of electricity, or as a pumping station or reservoir for water, except in so far as the undertakers may consent thereto:

Provided that any consent required for the purposes of this subsection shall not be unreasonably withheld, and any question whether or not consent so required is unreasonably withheld shall be determined by the Minister after consultation with the Minister of Health.

Sect. 6. [*Power to conduct experiments.*]

(1) The Minister may, either by himself or through any authority or other organisation approved by him, conduct experiments or trials for the improvement of the construction of roads, or for testing the effect of various classes of vehicles on various types of roads, and may construct such roads and works, erect such plant, provide such accommodation, and, subject to the approval of the Treasury, incur such expenditure as may be necessary for the purpose.

(2) An experiment or trial under this section shall not be conducted on any highway except with the consent of the authority or person responsible for the maintenance of the highway, and, where the highway is a main road maintained by an urban authority pursuant to section 11(2) of the Local Government Act, 1888,[2] the consent of the county council also.

(3) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person shall, unless the damage was caused or contributed to by his negligence, be entitled to recover compensation therefor from the Minister.

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(1) 15 Geo. V, c. 16, s. 2. But see Act of 1929, s. 42 (2), *ante*, p. 104.

(2) Now repealed, see *ante*, p. 287 (4).

Sect. 7. [*Joint exercise of powers.*]

The powers conferred by this Act upon the Minister, or any county council or other highway authority may, by agreement between any of them respectively, be exercised jointly, and any such agreement may provide for the apportionment of any expenses incurred thereunder.

Sect. 8. [*Expenses.*]

All expenses under this Act incurred by the Minister shall be paid out of the Road Fund, and all such expenses incurred by a county council or other highway authority, so far as not defrayed out of any advance made by the Minister, shall, except as otherwise in this Act expressly provided, be defrayed as expenses incurred by the county council or authority in exercise of their powers as a highway authority, and the enactments relating to such expenses, including the provisions thereof as to borrowing, shall apply accordingly.

Sect. 9. [*Determination of questions.*]

(1) If any question arises—(*a*) whether compensation is payable under any of the provisions of this Act except section 5 thereof or as to the amount of any compensation so payable; or (*b*) whether a notice served under section 4 of this Act shall be withdrawn as respects any requirement or restriction objected to in manner provided by this Act; or (*c*) whether any expenses were reasonably incurred by any person in carrying out directions contained in a notice served under section 4 of this Act; the question shall be decided, if the parties so agree, by a single arbitrator appointed by them, or in default of such agreement as aforesaid, by the county court.

(2) A county court shall have jurisdiction to deal with any such question as aforesaid, notwithstanding that, by reason of the amount of claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

(3) In determining any question whether a notice served under section 4 of this Act shall be withdrawn as respects a requirement or restriction objected to, the arbitrator or court shall have power to order that the requirement or restriction shall have effect subject to such modifications, if any, as the arbitrator or court may direct.

(4) Except in so far as they may be applied by county court rules, the provisions of the Arbitration Act, 1889,[1] shall not apply to any proceedings in a county court under this Act.

Sect. 10. [*Provisions as to notices.*]

Subject as hereinafter provided, every notice which may be served under this Act may be served either by delivering it or leaving it at the usual or last known place of abode of the person on whom it is to be served, or by sending it by post as a registered letter addressed to him at his usual or last known place of abode, or if that cannot be found, by fixing it on some conspicuous part of the land; and any such notice or document may be addressed, as the case may require, to the "owner," "occupier" or "lessee" of the land (describing it) without further name or description : Provided that a notice requiring the owner or occupier of land to alter the height or character of any wall, fence or hedge thereon shall be served personally upon him or his agent, or upon some person having charge of his affairs, and if the notice is served upon the occupier a copy thereof shall be served upon the owner, or if it is served upon the owner a copy thereof shall be served upon the occupier of the land.

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(1) 52 & 53 Vict. c. 49.

Sect. 11. [*Interpretation.*]

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Building" includes any erection of whatsoever material and in whatsoever manner constructed, and any part of a building;[1]

"Common, open space and allotment" have the meanings respectively assigned to them by the Development and Road Improvement Funds Act, 1909;[2]

"Fence" includes any hoarding or paling;

"Hedge" includes any tree or shrub, whether forming part of a hedge or not;

"Local authority for the district" means as respects land within the administrative County of London, the Common Council of the City of London, or a metropolitan borough council, as the case may require, and as respects any other land, the district council :

"New building" includes any addition to an existing building;[3]

"Owner" has the same meaning as in the Public Health Acts, 1875 to 1907;[4]

"Road" includes any bridge, viaduct, subway, road, ferry and footway;

"Wall" includes any partition of whatsoever material constructed, and any bank.

* * * *[5]

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(1) For cases relating to this expression, and the expression "new building," see Glen's P.H. at pp. 383-388. For a recent case under the Open Spaces Act, 1906 (6 Edw. VII, c. 25), s. 4, see *Bermondsey B.C.* v. *Mortimer*, L.R. 1926 P. 87. For one under the Disused Burial Grounds Act, 1884 (47 & 48 Vict. c. 72), see *St. Nicholas Acon's Churchwardens* v. *London C.C.*, L.R. 1928 A.C. 469; 97 L.J.P.C. 113; 139 L.T. 530; 92 J.P. 185; 26 L.G.R. 583.

(2) See s. 19 (4), and Note, *ante*, pp. 337, 338.

(3) See footnote (1), *supra*.

(4) See P.H. Act, 1875, s. 4, set out *ante*, p. 272.

(5) Of the two remaining sections, s. 12 relates to Scotland, and s. 13 gives the above short title and provides that the Act is not to extend to Northern Ireland.

THE PUBLIC HEALTH ACT, 1925.

PART I.

Note.

PARTS OF ACT.—*By sect.* 1 (3) *of the present Act,*[1] *Parts I to VIII "shall be construed as one with the Public Health Acts,* 1875 *to* 1907," *and by sect.* 2 (2)[2] "*Parts II, III, IV and V of this Act are adoptive, and shall extend, in so far as they may be adopted, to any district for which they are adopted in accordance with the provisions of this Act: Provided that, where powers are conferred on a county council by any section in Part II of this Act those powers may be exercised by the council without an adoption by them of the provisions of that section." But see Note to Sched. I of Act of* 1929.[3]

For the sections of this Act not set out in this work, see the work mentioned below.[4]

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Sect. 8. [*Appeals to petty sessional court.*]

Where any enactment in this Act provides for an appeal to a petty sessional court against a notice, determination, requirement, order or intended order of a local authority under this Act—

(1) Notice in writing of the appeal and of the grounds thereof shall be given by the appellant to the clerk to the local authority;

(2) The court may make such order in the matter as they consider reasonable, and may award costs to be recoverable as a civil debt;

(3) No proceeding shall be taken by the local authority, or work executed, until after the determination or abandonment of the appeal;

(4) Notice of the right of appeal shall be endorsed on the order of the local authority and on any notice communicating their determination, requirement or intended order.

Note.

APPEALS.—*By sect.* 7 (1) *of the present Act,*[5] "*the provisions of Part I of the Public Health Acts Amendment Act,* 1907, *which are specified in the Fourth Schedule to this Act,*[6] *shall, as amended by any subsequent enactment, apply for the purposes of this Act, with the substitution of references to this Act for the references therein to that Act." See the Note to sect.* 30 *of Act of* 1929.[7]

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(1) 15 & 16 Geo. V, c. 71, s. 1 (3).
(2) *Ibid.*, s. 2 (2).
(3) Set out *ante*, p. 81.
(4) "Glen's Public Health," 1925 Edition, at pp. ccxxxviii–cclxii.
(5) 15 & 16 Geo. V, c. 71, s. 7 (1), Sched. IV.
(6) Including s. 7, set out *ante*, p. 314, the application of which, however, to s. 32 is expressly excluded, see subsect. (2) *post*, p. 356.
(7) *Ante*, p. 81 (9)-(11).

PART II.

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Sect. 21. [*Prevention of water flowing on footpath.*]

(1) The owner of any premises abutting on a street within an urban district shall, within twenty-eight days after the service of a notice in writing by the urban authority requiring him so to do, execute and thereafter maintain such down-pipes, channels or gutters as may be necessary to prevent, so far as is reasonably practicable, surface water from the premises flowing on to, or over, the footpath of the street, and if he fails to do so he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.[1]

(2) The provisions of this section shall be in addition to and not in derogation of the provisions of section 74 of the Towns Improvement Clauses Act, 1847.

Note.

ROOF WATER.—*By sect.* 74 *of the Act of* 1847,[2] "*the occupier of every house or building in, adjoining, or near to any street shall, within seven days next after service of an order of the* [*council*] *for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house, or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath. And in default of compliance with any such order within the period aforesaid, such occupier shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default.*"

Sect. 22. [*For preventing soil, &c., from being washed into streets.*]

(1) The urban authority may give notice to the owner or occupier of any lands abutting upon any street within their district which is repairable by the inhabitants at large, requiring him, within twenty-eight days after the service of the notice, so to fence off, channel or embank the lands as to prevent soil or refuse from such lands from falling upon, or being washed or carried into the street, or into any sewer or gully therein, in such quantities as will obstruct the highway or choke up such sewer or gully.

(2) Any person to whom a notice under this section is addressed who shall fail, within twenty-eight days after the service of the notice,

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(1) Applied, without modification, by Sched. I, Parts I and IV, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (13) and 85 (10).

(2) 10 & 11 Vict. c. 34, s. 74.

to execute the works therein specified shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.[1]

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Sect. 25. [*Restriction on placing rails, beams, &c., over streets.*]

(1) It shall not be lawful for any person to fix or place any overhead rail, beam, pipe, cable, wire or other similar apparatus over, along, or across any street, without the consent of the local authority, and any such consent shall be in writing under the hand of the clerk, and may contain such reasonable terms and conditions as the local authority think fit.

(2) Any person acting in contravention of the provisions of this section, or of the terms and conditions (if any) of such consent, shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) Nothing in this section shall extend to any works or apparatus belonging to any statutory undertakers.

(4) Upon the commencement of this section Part II of the Public Health Acts Amendment Act, 1890, shall cease to have effect as respects any area in which this section is in force, but any byelaws made by the local authority under that Part of that Act shall nevertheless remain in force as respects that area until revoked by a resolution of the local authority.[2]

Sect. 27. [*Power to grant licences for bridges over streets.*]

(1) The local authority may grant to the owner or occupier of any premises abutting upon any street a licence to construct and use a way by means of a bridge over that street for such period and on such terms and conditions as to the local authority may seem fit: Provided that—

(*a*) No fine, rent or other sum of money (except a reasonable sum in respect of legal or other expenses incurred) shall be payable for or in respect of the licence:

(*b*) The licence shall not authorise any interference with the convenience of persons using the street, or affect the rights of the owners of the property abutting on the street or the rights of any tramway, railway, dock, harbour or electricity undertakers acting under powers conferred by Parliament:

(*c*) It shall be a condition of every such licence that the owner of the premises, or if the licence is granted to the occupier, the occupier shall, at the request of the local authority and at his own expense, remove or alter such bridge in such manner as the local authority require, in the event of their considering such removal or alteration necessary or desirable in connection with the carrying out of improvements to the street at any time, and the decision of the local authority that such removal or alteration is necessary or desirable shall be final and conclusive, and this condition may be enforced by the local authority against the owner for the time being of the premises :

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(1) Applied, without modification, by Sched. I, Parts I and IV, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (14) and 85 (11).

(2) Applied, without modification, by Sched. I, Parts I and III, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (15) and 85 (8). Part II of Act of 1890 (54 & 55 Vict. c. 59, ss. 13–15) relates to danger from telegraph wires.

(*d*) For the purposes of section 7 of the Telegraph Act, 1878, any work authorised or required by a licence under this section shall be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament, and for the purposes of the placing or maintenance of overground telegraphic lines under the powers conferred by the Telegraph Acts, 1863 to 1925, a bridge constructed or used in accordance with a licence under this section shall be deemed to be part of any street or road which it crosses.

(2) If any person (except in the exercise of statutory powers) constructs a bridge over any street without such licence, or constructs or uses a bridge otherwise than in accordance with the terms and conditions of the licence, or fails to remove or alter a bridge when required so to do under this section, or fails to remove a bridge in accordance with a term or condition of the licence or within one month after the expiration of the licence, he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.[1]

Note.

TELEGRAPH ACTS.—*By sect.* 7 *of the Telegraph Act*, 1878,[2] "*Where any work proposed to be done in the execution of an undertaking authorised by an Act of Parliament involves or is likely to involve an alteration either temporarily or permanently in any telegraphic line of the Postmaster General, and provision is not otherwise made by enactment, agreement, or otherwise with respect to such alteration or to giving notice to the Postmaster General thereof or to the expenses of or incidental thereto, the following enactments shall apply :*

(1) *The undertakers or their agents shall give to the Postmaster General not less than seven nor more than fourteen days previous notice of the time and place at which the work will be begun and the nature of the alteration required :*

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[1] Applied, without modification, by Sched. I, Parts I and III, see Notes to ss. 30 and 31 of Act of 1929, *ante*, pp. 80 (16) and 85 (9).

[2] 41 & 42 Vict. c. 76, s. 7. See also R.I. Act, 1925, s. 1 (6), *ante*, p. 333.

(2) *Before the expiration of seven days after the notice is given the Postmaster General may give the undertakers or their agents a counter-notice either stating his intention himself to make, or requiring the undertakers to make under the supervision and to the satisfaction of himself or his agents, such alteration in the telegraphic line as he deems necessary or expedient to be made in consequence of the proposed work :*

(3) *If the Postmaster General by his counter-notice states that it is his intention himself to make such alteration, it shall be lawful for such Postmaster General by himself or his agents to make the same, and the undertakers or their agents shall pay to the Postmaster General all the expenses incurred by him of and incidental thereto, and the amount of any loss or damage sustained by him in consequence thereof :*

(4) *If the Postmaster General by his counter-notice requires the undertakers or their agents to make such alteration, the undertakers or their agents shall, at their own expense, make the same under the supervision and to the reasonable satisfaction of the Postmaster General or his agents, and the said undertakers shall pay to the Postmaster General all the expenses incurred by him of and incidental to such supervision, also the amount of any loss or damage sustained by him in consequence of the alteration :*

(5) *If the Postmaster General fails to give a counter-notice, or if having undertaken himself to make the alteration he or his agents should fail to make within a reasonable time the alteration, the undertakers or their agents may themselves make the alteration to the reasonable satisfaction of the Postmaster General or his agents :*

(6) *If any undertakers or their agents fail to serve on the Postmaster General such notice as is required by this section with respect to any work, or begin to do the work specified in a notice served under this section before the expiration of seven days after the notice is given, they shall be liable to pay a fine not exceeding ten pounds for every day during which they continue such work without the sanction in writing of the Postmaster General, and the Postmaster General may at the expense of the undertakers remove such work :*

(7) *If any undertakers or their agents fail to comply with the reasonable requirements of the Postmaster General or his agents under this section, they shall be liable to a fine not exceeding ten pounds for every day during which such failure continues, or if the telegraphic communication is interrupted, not exceeding fifty pounds for every day on which such interruption continues :*

(8) *Provided that nothing in this section shall subject any undertakers or their agents to a fine for omitting to comply with any requirements of the Postmaster General or his agents, or for executing without previous notice any work if they satisfy the court having cognisance of the case that any such requirement was unreasonable or that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or subpostmaster of the postal telegraph office nearest to the place where the*

work was done a notice of the execution thereof, stating the reason for executing the same without previous notice.

And where under section 8 *of the Telegraph Act*, 1863, *any body to or by whom any such pipe as in that section mentioned belongs or is used require that the position of any telegraphic line of the Postmaster General or any part thereof should be altered, the enactments of the present section shall apply, and for such purposes any such body shall be deemed to be 'undertakers.'*"[1]

Sect. 28. [*Erection of bridge forming part of new street.*]

(1) No person (except in the exercise of statutory powers) shall construct a bridge to carry a new street unless the bridge and its approaches are of such width and gradients as are approved by the local authority, and are constructed in accordance with specifications, plans and sections so approved.

(2) If any person acts in contravention of this section he shall be liable to a penalty not exceeding twenty pounds, and the local authority may remove, alter or pull down any work begun or done in contravention of this section, and may recover the expenses incurred by them in so doing from such person in a summary manner as a civil debt.

(3) The requirements of this section shall be in substitution for the requirements of any byelaws of the local authority applying to bridges and made before the commencement of this section.[2]

Sect. 29. [*Continuation of existing street.*]

A street may be deemed to be a new street for the purpose of the application of any byelaws of the local authority with respect to new streets, or of any provision in a local Act with respect to the width of new streets notwithstanding that it is a continuation of an existing street.[3]

Sect. 30. [*Declaration of street as a new street.*]

(1) Where it appears to the local authority that the whole or any portion of an existing highway will be converted into a new street as a consequence of building operations which have been, or are likely to be, undertaken in the vicinity, the local authority may by order declare such highway, or such portion thereof as may be specified in the order, to be a new street for the purpose of the application thereto of [their byelaws] with respect to new streets or of any provision in a local Act with respect to the width of new streets.

(2) Not less than one month before making an order under this section, the local authority shall cause notice of the intended order to be posted at each end of the street, or part of the street, or in some conspicuous position in the street or part affected.

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(1) The pipes mentioned in the Telegraph Act, 1863 (26 & 27 Vict. c. 112), s. 8, are gas and water pipes. For a Note on the Telegraph Acts, see Glen's P.H. at pp. 306–311.

(2) Applied, without modification, by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (17).

(3) See P.H. Act, 1875, s. 157, *ante*, p. 277.

(3) Every such notice shall contain a statement that the intended order may be made by the local authority on or at any time after the day named in the notice, and that an appeal to quarter sessions will lie under this Act against the order at the instance of any person aggrieved.

(4) Upon an order under this section coming into operation any person who shall commence to erect a new building upon land abutting on or adjoining the highway, or portion of the highway, by the order declared to be a new street, shall, in relation to that land, be deemed to be laying out a new street within the meaning of [the byelaws of the local authority] with respect to new streets, or of any provision in a local Act with respect to the width of new streets.

(5) Nothing in this section shall extend to a building (other than a dwelling-house) erected by a railway company in the exercise of their statutory powers and occupied or used for the purposes of their railway, or erected by the owners, trustees or conservators, acting under powers conferred by Parliament, of any canal, inland navigation, dock or harbour, and occupied or used for the purposes of the canal, inland navigation, dock or harbour.[1]

Sect. 31. [*Width of streets in certain cases.*]

(1) Whenever application shall be made to the local authority to approve the plans of a new street, in pursuance of any byelaw or enactment requiring a plan to be submitted to the local authority, and such new street in the opinion of the local authority will form—(*a*) a main thoroughfare or a continuation of a main thoroughfare, or means of communication between main thoroughfares in their district; or (*b*) a continuation of a main approach, or means of communication between main approaches, to their district; the local authority may, as a condition of their approval, require that the new street shall be formed of such width as they may determine:

Provided that, if such width exceeds by more than twenty feet the maximum width prescribed for a new street by any byelaw or enactment with respect to the width of new streets which may be in force in the area, the local authority shall make compensation for any loss or damage which may be sustained by reason of the street being required to be a width greater than twenty feet in excess of such maximum width.

(2) The amount of such compensation shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919,[2] but in

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(1) Applied, "as if the references therein to 'their byelaws' and 'the byelaws of the local authority' were references to the byelaws of the rural district council," by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (18). This enactment removes the difficulty exemplified by *Attorney General* v. *Dorin*, L.R. 1912, 1 Ch. 369, and other cases cited in Glen's P.H. at p. 379. See also, s. 31, *infra*, s. 32, *post*, p. 356, and s. 35, *post* p. 360.

(2) 9 & 10 Geo. V, c. 57, see Glen's P.H. at pp. 2334–2338.

estimating the amount of any such compensation, the benefits accruing to the person to whom the same shall be payable by reason of the widening of the street, shall be fairly estimated and shall be set off against the compensation.

(3) Nothing in this section shall empower the local authority to require any person to defray any greater expense in the execution of any street works than would have been payable, if the street had been of no greater width than the width prescribed as aforesaid by any byelaw or enactment, and the additional expense incurred in the execution of street works by reason of the street being of such greater width, shall be certified by the surveyor, or in case of dispute shall be determined by a petty sessional court, and shall be borne by the local authority.

(4) The local authority shall determine in any case to which this section applies the proportion of the width of any such new street to be laid out as a carriageway, or as a footway or footways, and any such new street shall be formed accordingly.[1]

Sect. 32. [*Width of street where buildings erected on one side of street.*]

(1) Where an owner proposes to lay out a new street upon land which adjoins or abuts on an existing highway, and buildings have been or are about to be erected on one side only of that highway, the local authority, in any case in which they are empowered to require such owner to widen the existing highway to the width prescribed for a new street by any byelaw or enactment with respect to the width of new streets (which width is in this section referred to as "the prescribed width") may, instead of requiring the existing highway to be widened to the prescribed width, by order permit such owner to widen the highway to such less width as may be specified in the order, so, however, that the distance between the centre line of the existing highway and the boundary (as extended) of the highway on the side adjoining the land of such owner shall not be less than one-half of the prescribed width.

(2) Notwithstanding anything in section 7 of the Public Health Acts Amendment Act, 1907,[2] as applied by this Act, an appeal shall not lie to a court of quarter sessions against the withholding or refusal by the local authority of an order under this section.

(3) Not less than twenty-one days before the local authority make an order under this section, notice of the proposed order shall be sent by the local authority to the owner of the land to which the order

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(1) Applied, but " not to affect the application for the approval of plans being made to the rural district council, who within seven days of the receipt of the application must notify the county council. The county council to have power to authorise the county surveyor to exercise on their behalf their powers under this section," by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (19).

(2) Set out, *ante*, p. 314, as applied by s. 7 of present Act.

will relate, and to any owner of land which adjoins or abuts on the other side of the existing highway opposite the land to which the order will relate.

(4) If and when building shall commence on the land last mentioned, the owner of that land shall complete the widening of the existing highway to the prescribed width, and if he fails to do so, he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings : Provided that this subsection shall not impose on any such owner an obligation to pull down any building erected before the date of the order of the local authority under this section.[1]

Sect. 33. [*Power to prescribe improvement line for widening streets.*]

(1) Where in the opinion of the local authority—(*a*) any street repairable by the inhabitants at large is narrow or inconvenient, or without any sufficiently regular boundary line; or (*b*) it is necessary or desirable that such street shall be widened; the local authority may prescribe in relation to either side of the street, or at or within a distance of fifteen yards from any street corner, the line to which the street shall be widened (in this section called "the improvement line").

(2) Any improvement line which the local authority propose to prescribe shall be marked and shown on a plan (in this section called "the improvement plan") to be signed by the clerk, and the plan shall be deposited at the offices of the local authority, and shall be open, during ordinary office hours, for a period of one month after its deposit, to inspection, free of charge, by any person interested.

(3) Upon the deposit of the improvement plan, the local authority shall give notice in writing of such deposit, and of the liabilities imposed by this section, to every occupier and owner of land interested, whose name and address can be reasonably ascertained by them, and where the name and address cannot after diligent inquiry be ascertained by them, by affixing the notice to the premises.

(4) The local authority shall consider any objection made to a proposed improvement line, and not less than six weeks after the date on which notice of the deposit of the improvement plan was given to owners and occupiers, the authority may by resolution prescribe an improvement line, and the line so prescribed shall be shown on a plan duly sealed and authenticated and shall be the improvement line for the purposes of this section.

(5) No new building, erection or excavation shall, after an improvement line has been prescribed, be placed or made nearer to the centre line of the street than the improvement line, except with the consent of the local authority, which consent may be given for such period

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(1) Applied, without modification, by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (20).

and subject to such terms and conditions as they may deem expedient: Provided that the foregoing prohibition shall not affect any right of statutory undertakers to make any excavation for the purpose of laying, altering, maintaining, repairing or renewing any main, pipe, electric line, cable, duct or other work or apparatus.

(6) Any person whose property is injuriously affected by the prescribing of an improvement line shall be entitled to obtain compensation in respect of such injurious affection from the local authority: Provided that a person shall not be entitled to obtain compensation on account of any building erected, or contract made or other thing done after the date of the deposit under this section of the improvement plan, not being work done for the purpose of finishing a building begun or of carrying out a contract entered into before that date.

(7) The amount of such compensation shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919:[1] Provided that, in determining the amount of such compensation, the arbitrator may take into account and embody in his award any undertaking with regard to the exercise of their powers under this section in relation to the property affected, which the local authority have offered to give to the claimant, and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the local authority.

(8) The local authority may purchase any land not occupied by buildings, lying between the improvement line and the boundary of the street, or any interest in such land, and the provisions of the Lands Clauses Acts, including the provisions with respect to the purchase and taking of lands otherwise than by agreement, except sections 92 and 123 of the Lands Clauses Consolidation Act, 1845, shall extend to such land or interest in land.[2]

(9) Any land purchased under the preceding subsection shall be added to the street, and until the land is so added, the occupier of the land from which it is severed, and other persons with his permission, shall be entitled to reasonable access across the land so purchased to and from the street, and shall have the same rights in regard to the laying, altering, maintaining, repairing and renewing of drains, mains, pipes or electric lines in such land as if the same were part of the street.

(10) In the assessment of compensation for injurious affection, or in respect of a purchase of land, under this section, the benefits accruing to the person to whom the same shall be payable, by reason of the widening or improvement of the street, shall be fairly estimated and shall be set off against the compensation.

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(1) See footnote (2) *ante*, p. 355.

(2) 8 & 9 Vict. c. 18, ss. 92 (as to taking part of house) and 123 (as to compulsory purchase within 3 years). See Glen's P.H. at pp. 1586, 1587, and 1595.

(11) Any compensation for injurious affection payable by a local authority under the foregoing provisions of this section may be recovered summarily as a civil debt.

(12) If after an improvement line has been prescribed by the local authority, any person offends against the provisions of this section, he shall, without prejudice to any other proceedings which may be available against him, be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(13) Nothing in this section contained shall apply to or affect—(*a*) any property occupied or used by a railway company for the purposes of their railway without the consent of the company; or (*b*) any property vested in the owners, trustees or conservators, acting under powers conferred upon them by Parliament, of any canal, inland navigation, dock or harbour, and used for the purposes of the canal, inland navigation, dock or harbour, unless the consent of such persons is obtained by the local authority; or (*c*) any land specifically authorised by Parliament to be used for the manufacture or storage of gas, the generation of electricity, or as a pumping station or reservoir for water, unless the consent of the undertakers is obtained by the local authority:

Provided that any consent required by this subsection shall not be unreasonably withheld, and any question whether or not such consent has been unreasonably withheld shall be determined by the Minister of Health.[1]

Sect. 34. [*Extension to county councils of preceding section.*]

(1) The powers conferred on the local authority by the last preceding section may be exercised by the county council as respects any main road maintained by the county council, and in relation to any main road so maintained the provisions of that section shall have effect with the substitution of the county council for the local authority: Provided that the county council shall consult the district council before the preparation by them of an improvement plan with respect to any main road maintained by the county council.

(2) The county council may contribute towards expenses incurred under the last preceding section by the local authority of any district within their area.

(3) Any expenses incurred by a county council under this section shall be defrayed as expenses for general county purposes, and money may be borrowed by a county council for the purposes of this section subject to and in accordance with the provisions of the Local Government Act, 1888.[2]

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(1) As to transfer of land acquired under this section to county councils, see s. 117 (1) (*a*) of Act of 1929, and cross-references in Note thereto, *ante*, p. 181 (1). This section and the next are not among those applied by Sched. I of the Act of 1929.

(2) See footnote (1), *supra*. See also s. 128 of Act of 1929 and cross-references in Note thereto, *ante*, p. 200; and L.G. Act, 1888, ss. 68, 69, set out *ante*, p. 293.

Sect. 35. [*Power to vary width of carriageway and footway on making up private street.*]

Upon the exercise by an urban authority of the powers of section 150 of the Public Health Act, 1875, or of the Private Street Works Act, 1892,[1] as the case may be, in relation to any street, the urban authority shall have power to require a variation of the relative widths of the carriageway and footway or footways of the street : Provided that no greater charge shall be imposed on a frontager by reason of any such variation than could have been imposed in respect of a carriageway or footway of the width prescribed for a new street of the same class by any byelaw or enactment with respect to the width of new streets which applied to the street when it was laid out, and any sum in excess of that charge shall be borne by the urban authority.[2]

Sects. 64 and 65. [Set out in Note to s. 14 of Act of 1929, *ante*.]

THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928.

Sect. 1. [*Distinction of hereditaments and apportionment of values in valuation lists.*]

(1) In every valuation list the classes of hereditaments hereinafter mentioned shall, in the prescribed manner, be distinguished from each other and from all other hereditaments, that is to say, there shall be so distinguished—

(*a*) agricultural hereditaments;[3]

(*b*) industrial hereditaments;[4]

(*c*) freight-transport hereditaments;[5]

and where by this Act the net annual value of any such hereditament is required to be apportioned such apportionment shall be shown in the prescribed manner in the valuation list.

(2) Valuation lists which will come into force after the first day of October, 1929, shall be made in conformity with the provisions of this Act; and the principal Act, that is to say, (*a*) in relation to places outside London, the Rating and Valuation Act, 1925, as amended by any subsequent enactment; and (*b*) in relation to London, the Valuation (Metropolis) Act, 1869, as amended by any subsequent enactment, including this Act, shall apply accordingly.[6]

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(1) Set out *ante*, p. 299.

(2) Applied, without modification, by Sched. I, Part I, see Note to s. 30 of Act of 1929, *ante*, p. 80 (21). See also ss. 30–32, *ante*, pp. 354 *et seq.*

(3) Defined in s. 2 of present Act, set out in Note to s. 67 of Act of 1929, *ante*, p. 127.

(4) Defined in s. 3 of present Act, set out in Note to s. 68 of Act of 1929, *ante*, p. 129.

(5) Defined in s. 5 of present Act, set out in Note to s. 68 of Act of 1929, *ante*, p. 131.

(6) But see Sched. IX, Part II, 6, of Act of 1929, *ante*, p. 245.

(3) For the purpose of enabling valuation lists which will be in force on the first day of October, 1929, to be brought into conformity with this Act, the provisions set out in the First Schedule to this Act shall have effect.[1]

* * * *[2]

Sect. 4. [*Entries in valuation lists as to industrial hereditaments.*]

(1) In every valuation list every industrial hereditament occupied and used wholly for industrial purposes shall be shown as being so occupied and used, and as respects every such hereditament occupied and used partly for industrial purposes, the net annual value thereof shall be shown, in the prescribed manner, as being apportioned between the occupation and user of the hereditament for industrial purposes, and the occupation and user thereof for other purposes.

(2) For the purpose of determining in what proportions an industrial hereditament is occupied and used for industrial purposes and for other purposes respectively, the following provisions shall have effect :—

(*a*) The hereditament shall be deemed to be occupied and used for industrial purposes except in so far as any part thereof is, under this Act or under the enactments relating to the regulation of mines, factories and workshops, to be deemed neither to be, nor to form part of, a mine, factory, or workshop :

(*b*) Where the net annual value of a hereditament does not exceed fifty pounds or where the part of the net annual value of a hereditament attributable to purposes other than industrial purposes does not exceed ten per cent. of the part thereof attributable to industrial purposes, the hereditament shall be treated as if it were occupied and used wholly for industrial purposes; and where the part of the net annual value attributable to such other purposes exceeds ten per cent. of the part thereof attributable to industrial purposes, the part attributable to such other purposes shall not be treated as being attributable to those other purposes except in so far as it exceeds ten per cent. of the part attributable to industrial purposes :

(*c*) Where two or more hereditaments in the same occupation are, by virtue of the provisions of subsection (3) of the last foregoing section,[3] treated as if they formed parts of a single hereditament, each of the several hereditaments shall be deemed to be occupied and used for industrial purposes and for other purposes respectively in the proportion in which, if all the hereditaments formed a single hereditament, that single hereditament would be deemed to be so occupied and used.

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(1) Sched. I, a long one, is of a transitory nature and has accordingly been omitted. It will be found in " Konstam's " Rating and Valuation (Apportionment) Act, 1928," at pp. 93–118. For the "temporary provisions" affecting Sched. I, see Act of 1929, Sched. IX, Part II, *ante*. Circulars of the Ministry of Health on the Act will be found in 26 L.G.R. (Orders) 292, 295, 362. For the Special List Rules, 1928, see *ibid.*, 393–410, and the Memorandum thereon, *ibid.*, 365–378.

(2) As to ss. 2 and 3, see footnotes (3) and (4), *ante*, p. 360.

(3) *Ante*, p. 130.

* * * *[1]

Sect. 6. [*Entries in valuation lists as to freight-transport hereditaments.*]

(1) In every valuation list every freight-transport hereditament, which is occupied and used wholly for transport purposes, shall be shown as being so occupied and used, and as respects every such hereditament occupied and used partly for transport purposes the net annual value thereof shall be shown in the prescribed manner as being apportioned between the occupation and user of the hereditament for transport purposes and the occupation and user thereof for other purposes.

(2) Where a freight-transport hereditament is not occupied and used for more than one transport purpose the nature of that purpose shall be shown, and where a freight-transport hereditament is occupied and used partly for one transport purpose and partly for either or both of the other transport purposes, the proportions of the net annual value of the hereditament attributable to the occupation and user thereof for the several transport purposes shall be distinguished.

(3) For the purpose of determining in what proportions a freight-transport hereditament is occupied and used for transport purposes and for other purposes, respectively, the hereditament shall be deemed to be occupied and used for transport purposes, except in so far as it is occupied and used for the purposes of a dwelling-house, hotel, or place of public refreshment: Provided that—(*a*) no part of a freight-transport hereditament which is so let out as to be capable of separate assessment shall be deemed to be occupied and used for transport purposes unless it is actually so occupied and used; and (*b*) in the case of a hereditament occupied and used for canal-transport purposes as part of a canal undertaking or occupied and used for dock purposes as part of a dock undertaking no part of the hereditament, being a building, yard, or other place primarily occupied and used for warehousing merchandise not in the course of being transported, shall be deemed to be occupied and used for transport purposes.

Sect. 7. [*Provisions as to London.*]

(1) The principal Act in relation to London shall for the purposes of the valuation lists (including special lists) to which this Act applies be amended as follows:—

(*a*) The value of any hereditaments which is calculated by making from the gross value thereof the deductions which by sections

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(1) For s. 5, see *ante*, p. 131.

4 and 52 of the principal Act are to be made from the gross value for the purposes of calculating rateable value,[1] shall henceforth be termed, and is the value referred to in this Act as, the net annual value, and the rateable value of any hereditament for the purposes of the principal Act shall until Parliament otherwise determines be taken to be the net annual value thereof :

(*b*) References to valuation shall be construed as including references to the apportionment of values :

(*c*) The provisions of the Rating and Valuation Act, 1925,[2] as set out and adapted in the Second Schedule to this Act shall apply to London as if enacted in the principal Act, and, in relation to any corrections in respect of totals of values made under the said provisions, sections 41 and 44 of the principal Act shall apply as they apply in relation to alterations in such totals, values made in consequence of decisions on appeals.[3]

(2) In this Act and in any Act passed after the passing of this Act in relation to London—

The expression " rating authority " means—(*a*) as respects the City of London, the common council ; (*b*) as respects any parish in a metropolitan borough, the council of the borough ; (*c*) as respects the Inner Temple and the Middle Temple, the Sub-Treasurer and the Under-Treasurer thereof respectively :

The expression " rating area " means the area of a rating authority :

The expression " assessment area " means the area in which an assessment committee acts.

Sect. 8. [*Expenses.*]

Any expenses incurred by the Commissioners of Inland Revenue in the execution of this Act shall be defrayed out of moneys provided by Parliament.

Sect. 9. [*Application to Scotland.*]

Sect. 10. [*Short title, construction and extent.*]

(1) This Act may be cited as the Rating and Valuation (Apportionment) Act, 1928.

(2) This Act, except in its application to Scotland, shall be construed as one with the principal Act, and the expression " prescribed " means prescribed by rules made under the principal Act.

(3) This Act shall not extend to Northern Ireland.

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(1) Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), ss. 4, 52. For definition of " principal Act," see s. 1 (2) (*b*), *ante*, p. 360.

(2) Namely, 15 & 16 Geo. V, c. 90, ss. 21, 29, 30, 38, 44, and 58, see *post*, p. 364.

(3) *Ibid.*, ss. 41, 44.

FIRST SCHEDULE.[1]

SECOND SCHEDULE.

(*See sect.* 7 (1) (*c*).)

Provisions of the Rating and Valuation Act, 1925, applied to London.

21.—(1) Subject to the provisions of this Act, there shall be inserted in the valuation list such particulars with respect to every hereditament in the rating area and the value thereof as may be prescribed.[2]

29. Every assessment committee shall cause to be kept a record of such particulars with respect to totals of values as may be prescribed for every rating area in the assessment area, and for every other area therein in the case of which total values are required to be inserted in the valuation list.[3]

30. An assessment committee may at any time cause to be corrected any clerical or arithmetical error in a valuation list, and the valuation list shall have effect accordingly, but if the correction is made in respect of any matter other than totals, the committee shall before making the correction send notice thereof to the occupier of the hereditament affected and to the rating authority of the rating area, and shall allow seven days to elapse for the making of any objection to the proposed correction.[4]

38.—(1) Any rating authority or assessment committee may, if they think fit, employ a competent person to give advice or assistance in connection with the valuation of any hereditaments in their area, and any person so employed shall have power, at all reasonable times and after giving due notice, and on production, if so required, of authorisation in writing in that behalf from the rating authority or committee authenticated by the signature of their clerk, to enter on, survey and value any hereditament in the area of the authority or committee which the authority or committee may direct him to survey and value. (2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.[5]

44. Any failure on the part of a rating authority or assessment committee to complete any proceedings with respect to the preparation of a valuation list within the time required by this Act, or the omission

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(1) See footnote (1), *ante*, p. 361.
(2) Marg. note: "Contents of valuation list."
(3) Marg. note: "Record of totals."
(4) Marg. note: "Correction of clerical errors."
(5) Marg. note: "Power of authorities to employ valuers."

from a valuation list of any matters required by this Act to be included therein, shall not of itself render the list invalid.[1]

58.—(1) The Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe anything which by this Act is to be prescribed and the form of any rate, demand note, valuation list, statement, return or other document whatsoever which is required or authorised to be used under or for the purposes of this Act. (2) Every rule made under this section shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule is laid before it praying that the rule may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new rule.[2]

THE AGRICULTURAL RATES ACT, 1929.

Sect. 1. [*Complete exemption of agricultural hereditaments from rates in respect of current half-year.*]

(1) No person shall be liable to pay rates in respect of the occupation of any hereditament during any part of the current half-year during which the hereditament is deemed in accordance with the provisions of this section to be an agricultural hereditament.

(2) The occupier of any hereditament shown in a draft special list or special list as being an agricultural hereditament shall, so long as the hereditament is so shown, be entitled to be repaid any sum paid by him, and to withhold any sum demanded from him, in payment of any rate in respect of the occupation thereof made in respect of the current half-year or any part thereof, but without prejudice to his liability to pay so much of the rate as is chargeable against him in respect of the occupation of the hereditament during any part of the current half-year during which it is not deemed, in accordance with the provisions of this section, to have been an agricultural hereditament.

For the purposes of this subsection, a hereditament shown in a draft special list as being an agricultural hereditament, according to the conclusions finally arrived at with respect thereto either by the rating authority or by the revenue officer, shall be deemed to be shown in the list as being an agricultural hereditament.

(3) Any person shall be entitled to recover from the rating authority any sums paid by him by way of rates in respect of the occupation of a hereditament during any part of the current half-year during which the hereditament is deemed, in accordance with the provisions of this section, to have been an agricultural hereditament.

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(1) Marg. note: "Valuation list not be rendered invalid by certain failures or omissions."

(2) Marg. note: "Power to make rules."

(4) For the purposes of this Act—

(*a*) a hereditament shown in the valuation list on the first day of October, 1929, as an agricultural hereditament, shall be deemed to have been such a hereditament throughout the current half-year unless the assessment committee, on the application of the rating authority or of the revenue officer, certify that it was an agricultural hereditament only during a part of the said period, and in that case the hereditament shall be deemed to have been an agricultural hereditament only during such part of the period as may be specified in the certificate; and

(*b*) a hereditament not so shown as aforesaid in the said valuation list shall be deemed to have been an agricultural hereditament during such part, if any, of the said period as may be specified in a certificate given by the assessment committee upon an application made before the first day of November, 1929, by the occupier of the hereditament; and

(*c*) where after the first day of October, 1929, an amendment is, in consequence of an objection lodged before that date, made in the valuation list, whereby a hereditament is shown or ceases to be shown in that list as an agricultural hereditament, the hereditament shall be deemed to have been so shown or not to have been so shown, as the case may be, on that date.

(5) Upon application being made to an assessment committee for a certificate under this section, the committee shall certify whether the hereditament in respect of which the application is made was an agricultural hereditament during any part of the current half-year, and if so, during what part thereof.

(6) Every certificate given by an assessment committee under this section shall be subject to appeal in like manner as if it were a decision on an objection to a draft special list or special list; and in relation to any application for such a certificate, the rating authority, the occupier of the hereditament, and the revenue officer, shall have the like rights as to receiving notice of, and making and opposing objections to, the application, and as to appealing, and receiving notices of and resisting appeals, as they have respectively in relation to a draft special list or special list.

Note.

AGRICULTURAL LAND.—*See sect.* 67 *of the Local Government Act,* 1929, *and the Note thereto, and the definitions in sect.* 5 *of the present Act and the footnotes thereto.*

Sect. 2. [*Grants to rating authorities out of Rating Relief Suspense Account.*]

There shall, at such times and in such manner as the Treasury may direct, be paid out of the Rating Relief Suspense Account to every rating authority a sum equal to the amount estimated in the prescribed manner and certified by the Minister of Health as being the difference between the sum receivable by the rating authority as the proceeds of rates in respect of the current half-year, and the sum which would have been so receivable if this Act had not been passed :

Provided that if the Minister is satisfied that the amount in the pound of the rates levied by any rating authority in respect of the current half-year has been abnormally increased by reason of charges not ordinarily falling to be borne by rates having been imposed thereon, the sum payable to the rating authority under this subsection shall be such sum as may be estimated and certified by the Minister as the sum which would have been so payable if the said amount in the pound had not been so increased as aforesaid.

Sect. 3. [*Provisions as to rates and precepts.*]

For the purposes of any rate made or to be made or precept issued or to be issued in respect of the current half-year, an authority, in estimating the amount which would be produced by a rate of a penny in the pound, or in determining the amount in the pound of any rate made or to be made or precept issued or to be issued by them, or in making any apportionment between two or more rating areas, shall not take into account the exemption from rates due to the operation of this Act or the amount of any payment to be received under this Act, and for the purpose of ascertaining the amount due under any precept to which section 9 (2) of the Rating and Valuation Act, 1925,[1] applies, the amount produced by the rate of the amount in the pound specified in the precept shall be taken to be the amount which would have been so produced if this Act had not been passed.

Sect. 4. [*Power to make regulations.*]

(1) The Minister of Health may make regulations for giving effect to the provisions of this Act, and in particular—

(*a*) as to the form of certificates to be given by assessment committees under this Act and as to the recording of such certificates;

(*b*) as to any entries to be made in valuation lists, rate books, or other documents, in consequence of the operation of this Act;

(*c*) as to the modifications to be made in demand notes in respect of the current half-year, and for such modifications being made by means of notices sent by rating authorities to occupiers of agricultural hereditaments or otherwise.

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(1) 15 & 16 Geo. V, c. 90, s. 9 (2). The precepts referred to are those "issued by guardians in respect of any period beginning on or after" April 1, 1927, "and by councils of counties in respect of any period beginning on or after" April 1, 1929.

(2) All regulations made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made, and if either House within the next subsequent twenty-one days on which that House has sat after any such regulation has been laid before it resolves that the regulation ought to be annulled, the regulation shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new regulations.

Sect. 5. [*Interpretation.*]

In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"Agricultural hereditament" has the same meaning as in the Rating and Valuation (Apportionment) Act, 1928 :[1]

"Current half-year" means the period beginning on the first day of April and ending on the thirtieth day of September, 1929, save that in relation to any rating area as respects which the date of the first new valuation under the Rating and Valuation Act, 1925, has been postponed by order of the Minister of Health until a date later than the said first day of April the expression "current half-year" means the period beginning on such later date as aforesaid and ending on the said thirtieth day of September :

"Prescribed" means prescribed by regulations made under this Act :

"Rate" has the same meaning as in the Rating and Valuation Act, 1925 :[2]

"Revenue officer,"[3] "occupier,"[4] "draft special list" and "special list" have, respectively, the same meanings as in the First Schedule to the Rating and Valuation (Apportionment) Act, 1928.

Sect. 6. [*Short title and extent.*]

(1) This Act may be cited as the Agricultural Rates Act, 1929.

(2) This Act shall not extend to Scotland or to Northern Ireland.

(3) The Minister of Health may by order direct that this Act shall, subject to such exceptions, adaptations, and modifications, if any, as may be specified in the order, extend to the Isles of Scilly, but, except as so applied, this Act shall not extend to the said Isles.

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(1) See *ante*, p. 127.

(2) See *ante*, p. 213.

(3) See *ante*, p. 245.

(4) By R. & V. (App.) Act, 1928 (18 & 19 Geo. V, c. 44), Sched. I. (10), "the expression 'occupier' in relation to a hereditament the owner of which is liable to pay or does pay the rates, includes the owner." Further as to this Schedule, see footnote (1), *ante*, p. 361.

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MIDDLE TEMPLE

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